

NACVROW1

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 ULKU ROWE,

4 Plaintiff,

5 v.

19 Civ. 8655 (JHR)

6 GOOGLE LLC,

7 Defendant.

Trial

8 -----x  
9 New York, N.Y.  
October 12, 2023  
9:10 a.m.

10 Before:

11 HON. JENNIFER H. REARDEN,

12 District Judge  
13 -and a jury-

14 APPEARANCES

15 OUTTEN & GOLDEN, LLP  
Attorneys for Plaintiff  
16 BY: CARA E. GREENE  
GREGORY S. CHIARELLO  
17 SHIRA Z. GELFAND

18 PAUL HASTINGS LLP  
Attorneys for Defendant  
19 BY: KENNETH W. GAGE  
SARA B. TOMEZSKO

20 Also Present: Vincent Yang, Paralegal (Outten & Golden)  
21 Andrew Velazquez, Google Rep.  
22 Jean Gutierrez, Paralegal (Paul Hastings)

NACVROW1

(Trial resumed; jury not present)

THE COURT: Good morning, everybody.

Please be seated.

MR. GAGE: Good morning, Judge.

THE COURT: Please be seated.

I'm going to start with a ruling on Plaintiff's 108.

MR. GAGE: Sorry, your Honor. I didn't hear. I  
couldn't hear.

THE COURT: I'm going to start with a ruling on  
Plaintiff's 108. I'm hoping the mics are not also failing in  
addition to the LiveNote.

MR. GAGE: It seems to be working now.

THE COURT: Oh, okay. Good.

I'm going to allow in all of Plaintiff's 108, both the  
record as a whole and the statements contained therein, with  
the exception of Ms. Rowe's statements which I determine are  
inadmissible. I'll provide the parties with a brief  
explanation for this ruling.

At bottom, P-108 involves two levels of hearsay.  
There is the record, in and of itself, that's layer one; and  
then there are the statements within reflecting notes from the  
interviews conducted by Google's employee relations, and that's  
layer two.

Starting with layer one, I conclude that it falls  
within Rule 803(6)'s business records exception, as they are

NACVROW1

1 notes created contemporaneously with interviews as part of a  
2 regular business practice. What is key here is that these  
3 notes were prepared pursuant to Google's own policies provided  
4 for contemporaneous note-taking when conducting interviews  
5 during ER investigations, as memorialized in P-99. This is a  
6 meaningful point and evinces a regularly conducted business  
7 activity.

8 In this regard, *Crimm v. Missouri Pacific Railroad*  
9 *Company*, 750 F.2d 703, 709 (8th Cir. 1984) is instructive.  
10 There, a manager at the company interviewed various "staff" in  
11 connection with an employee's allegations of sexual  
12 discrimination. Over the opposing party's objections, the  
13 court found the notes admissible as subject to the business  
14 records exception, reasoning, in relevant part, that the  
15 company "had a written policy requiring that in an  
16 investigation of sexual harassment, the conversations of those  
17 interviewed should be documented through written memoranda."  
18 Furthermore, plaintiff represents that the ER investigator,  
19 April Beaupain, who was present at the meeting, will establish  
20 that this document is a business record, in accordance with  
21 803(6)(d).

22 Now, my first question this morning is how, if at all,  
23 is P-57 distinguishable from P-108?

24 MS. GREENE: Your Honor, P-107 is distinguishable --

25 THE COURT: 57.

NACVROW1

1 MS. GREENE: I'm sorry, 57. P-57 is distinguishable  
2 only by the note-takers being two different members of ER than  
3 the other two members of ER in 108, and the individuals  
4 interviewed being Ms. Rowe and Ms. Burdis.

5 THE COURT: Okay. What is on the first -- there's  
6 some -- there's like a paragraph and another sentence or two at  
7 the top of the first page of P-57, allegation for reference.  
8 It looks like something that maybe Ms. Rowe wrote.

9 MS. GREENE: Your Honor, my understanding is that  
10 that's ER's notes to itself so that it understood what the  
11 allegation was that it was investigating. And in that, it  
12 copies the role -- the complaint that Ms. Rowe made. So it's  
13 ER's notation as to the complaint that Ms. Rowe made so that  
14 that's available to ER as they ask these investigative  
15 questions.

16 THE COURT: Okay. Mr. Gage.

17 MR. GAGE: Your Honor, I would agree that they are not  
18 distinguishable in any material way, in light of your Honor's  
19 ruling. Ms. Beaupain will be able to explain what that top  
20 paragraph is.

21 I did want to ask a question about your Honor's  
22 ruling. I thought I heard you say that -- something about the  
23 admissibility of statements made by the plaintiff in here.

24 THE COURT: So I'm going to need this in redacted form  
25 because the statements -- hang on. I don't have the document

NACVROW1

1 in front of me. But the interview of Ms. Rowe does not come in  
2 as part of that -- as part of P-108. It's the rest of the  
3 document.

4 MR. GAGE: And your Honor, I thought plaintiff was  
5 moving to admit the entire document. And Ms. Rowe, as a party  
6 opponent, and clearly her statements to an investigator would  
7 be an admission to a party opponent.

8 THE COURT: No. They are trying to offer the  
9 document. Hang on.

10 MR. GAGE: I understand that, your Honor. But in the  
11 interests of completeness, the rule of completeness, and in  
12 light of your Honor's ruling against us, we think the jury  
13 should hear what all of the witnesses interviewed said,  
14 including the party opponent who made a very clear admission  
15 in -- as reflected in P-57, that she could not think of  
16 anything that indicated gender played a role in her hiring  
17 process. And that was something she said to the investigator.

18 So for all of the reasons that your Honor has ruled  
19 the document is admissible, it should be admissible for those  
20 reasons as well, that her statements to the investigator were  
21 an admission of a party opponent.

22 THE COURT: So Google can offer that against Rowe.  
23 It's just that Rowe is not a party opponent to herself.

24 Let me just pull out the document.

25 MR. GAGE: I can hand your Honor a copy.

NACVROW1

1 THE COURT: That would be great.

2 MR. GAGE: We'll give you 57 and 108.

3 THE COURT: Thank you.

4 MR. GAGE: And what I was just referring to, your  
5 Honor, is on 57. It's literally on the last page at the  
6 bottom.

7 THE COURT: Oh, 57 of -- sorry.

8 MR. GAGE: I'm sorry, P-57, what I was just referring  
9 to when I was just talking about Ms. Rowe's statements to the  
10 investigator. It's an example.

11 THE COURT: Okay. Are you still asking me a question  
12 about 108 or are you arguing about 57?

13 MR. GAGE: I'm not arguing, your Honor. You've ruled  
14 that 108 and 57 come in, and I accept your Honor's ruling.

15 THE COURT: Well, I hadn't actually ruled on 57; I was  
16 just asking questions about it.

17 MR. GAGE: Oh, I'm sorry. I presumed --

18 THE COURT: No, that's why I was asking if it's  
19 distinguishable, because I'm making my way to a ruling.

20 MR. GAGE: As far as we're concerned, it's not  
21 distinguishable. I'm sorry, I should have just answered your  
22 question, not presuming where you were going.

23 THE COURT: That's quite all right.

24 Ms. Greene.

25 MS. GREENE: I would just note that Ms. Rowe was on

NACVROW1

1 the stand yesterday, and they had the opportunity to ask her  
2 about the content of it, just as I did with Mr. Shaukat and  
3 asked him about the content of statements to ER. In fact, they  
4 did ask her specifically about that phrase, whether she could  
5 think of anything that indicates gender played a role in her  
6 hiring process. And so that's already been asked and answered,  
7 and they should not have another opportunity -- I am not  
8 opposed to them offering the document in that unredacted form  
9 for their own purposes, but I am opposed to them recalling  
10 Ms. Rowe to the stand to examine her on something they had the  
11 opportunity to ask her about in their cross-examination.

12 MR. GAGE: We're not going to ask for that.

13 THE COURT: Okay. I have to make a decision on 57,  
14 and you --

15 MR. GAGE: Your Honor, if I may.

16 THE COURT: Yes.

17 MR. GAGE: Since you're letting 108 in, we will  
18 withdraw our objection to 57.

19 THE COURT: All right.

20 MR. GAGE: In light of your Honor's ruling on 108.

21 THE COURT: All right. Well, that simplifies it.

22 So then both come in.

23 Now, where are we on the testimony though? You're not  
24 asking to recall her.

25 MR. GAGE: No.

NACVROW1

1 THE COURT: Okay.

2 MR. GAGE: No.

3 THE COURT: All right.

4 MR. GAGE: We asked all the questions we cared to ask.

5 THE COURT: Okay. So these two documents, now we have  
6 resolution.

7 Let me go to the proposed offer of proof regarding  
8 Bennett. I have some questions about that.

9 First of all, setting aside for the moment competency  
10 and relevance, which I have questions about as well, don't we  
11 have a hearsay problem here, Ms. Greene, with what Ms. Bennett  
12 told Ms. Rowe?

13 MS. GREENE: I'm sorry, your Honor, I'm just going to  
14 that section of the letter.

15 THE COURT: All right. It's on page 7 of 9, in fact.

16 MS. GREENE: It is not hearsay because it's relevant  
17 to Ms. Rowe's understanding about the relative levels of her  
18 peers and the effect on the listener, not as to the truth of  
19 the matter asserted.

20 THE COURT: Why is her understanding relevant to her  
21 claims?

22 MS. GREENE: Your Honor, her understanding as to the  
23 relative leveling and qualifications of her peers is what gives  
24 rise to these claims.

25 THE COURT: So you're not -- let me see if you said



NACVROW1

1 this. It sounds like what you just said is that you're not  
2 offering it for the truth; is that correct?

3 MS. GREENE: Correct. So we're offering it for the  
4 circumstances in which she learned, but, more importantly, the  
5 impact on the listener. Ms. Rowe was surprised to learn of  
6 that fact.

7 THE COURT: Why are the circumstances in which she  
8 learned important or relevant?

9 MS. GREENE: It's just the context for what she  
10 learned that caused that impact. So the fact that she learned  
11 there was a Google women's leadership summit in California for  
12 all eight women at Google, the fact that she assumed  
13 Ms. Bennett would be in attendance and that they would have a  
14 meet-up, the only portion of that that's hearsay is what  
15 Ms. Bennett said, that she told Ms. Rowe that she was an L7  
16 and, therefore, was not invited to the event. That's the only  
17 portion of that that could arguably be considered hearsay. And  
18 for that portion, it's being offered for the effect on the  
19 listener that Ms. Rowe was surprised and the knowledge that  
20 Ms. Rowe believed for purposes of assessing her legal claims.

21 THE COURT: Hang on, Mr. Gage.

22 So evidence of discrimination against other employees  
23 is -- may be relevant to proving discrimination if that's  
24 established. But you didn't list Bennett as a witness. And  
25 you seem to want the jury to draw an inference of

NACVROW1

1 discrimination from this. But Ms. Rowe does not have personal  
2 knowledge that Bennett's leveling resulted from discrimination.

3 We are going to have an HR person on the stand, right?

4 MS. GREENE: At least one, yes.

5 MR. GAGE: A couple of them, your Honor.

6 THE COURT: I mean, the HR person may have personal  
7 knowledge of Bennett's leveling.

8 MS. GREENE: Your Honor, we do have the hiring  
9 manager, who -- Mr. Grannis, who also can testify as to the  
10 circumstances of Ms. Bennett's leveling. This goes to support  
11 Ms. Rowe's conclusion that gender was what was driving the  
12 decision-making process.

13 THE COURT: But we have no information of what drove  
14 the leveling decision on Ms. Bennett.

15 MS. GREENE: Because that evidence has not yet come  
16 in.

17 THE COURT: All right. So this is -- when is  
18 Mr. Grannis taking the stand?

19 MS. GREENE: I believe he's scheduled to take the  
20 stand later this afternoon.

21 THE COURT: All right. We'll make a decision on this  
22 before he takes the stand.

23 MS. GREENE: Okay.

24 THE COURT: Did you want to say anything else?

25 MR. GAGE: If I could just respond briefly just for

NACVROW1

1 the record, your Honor.

2 THE COURT: Yes.

3 MR. GAGE: First, there is no relevance exception to  
4 the hearsay rule. And there's clearly hearsay --

5 THE COURT: But she's not offering it for the truth,  
6 she says.

7 MR. GAGE: Well, I frankly disagree. But let's accept  
8 for the sake of argument that she's not. It is unduly and  
9 unfairly prejudicial to Google. And the relevance is minimal,  
10 if any, here, because it is going to essentially cause Google  
11 to have to go down the rabbit hole of defending the leveling  
12 decision for someone who's not a plaintiff in this case. This  
13 is a single-plaintiff case, not a class case, and, you know, it  
14 has no bearing on whether Ms. Rowe was improperly leveled. And  
15 so it shouldn't come in.

16 THE COURT: So you dispute that evidence of  
17 discrimination against other employees would be relevant?

18 MR. GAGE: I absolutely dispute that this evidence  
19 they're proffering is relevant. I don't think this is evidence  
20 of discrimination against another person, and I think the case  
21 law is clear that in some circumstances it may be relevant.  
22 But this isn't proof of discrimination against another person.  
23 This is -- this proffer here -- first of all, it contains  
24 hearsay. So, you know, I don't think, you know, this proffer  
25 suggests or shows there's discrimination. The fact that

NACVROW1

1 someone was a 7 and not an 8, or a 6 and not a 7, does not  
2 prove discrimination.

3 THE COURT: Yes. But are you objecting also to any  
4 testimony that might come in? So you're also objecting to  
5 questions to Mr. Grannis about Ms. Bennett.

6 MR. GAGE: Absolutely.

7 THE COURT: Okay. Well, all right. We're going to  
8 have to -- I'll get back to you on that.

9 MS. GREENE: May I quickly make a revision to the  
10 offer of proof?

11 THE COURT: Yes.

12 MS. GREENE: I think it's very possible for us to  
13 remove Ms. Bennett's statement and preserve the purpose of the  
14 statement, which was Ms. Rowe's knowledge and the effect that  
15 it had on her, without including Ms. Bennett's out-of-court  
16 statement, if that would resolve the issue.

17 With respect to this particular piece, I would just  
18 note Ms. Bennett's name is going to come up on documents and  
19 testimony throughout this case. And it's going to support a  
20 pattern that allows an inference of discrimination to be drawn  
21 in Ms. Rowe's favor. And so this is just one piece again of  
22 the broader puzzle in the broader picture that supports what  
23 Ms. Rowe alleges with respect to gender bias.

24 THE COURT: You want to say Ms. Rowe knows  
25 Ms. Bennett's level was a 7. And then the jury is what, they

NACVROW1

1 are going to -- you think that that's appropriate for them to  
2 draw an inference that that was based on discrimination?

3 MS. GREENE: Your Honor, Ms. Rowe learned that she was  
4 a 7. That informed her decision about whether bias was  
5 operating. When the jury is able to see the documents  
6 surrounding Ms. Bennett's leveling decision, the players  
7 involved, who were the same decision-makers with respect to  
8 Ms. Rowe, what Ms. Burdis, the recruiter, said about it, what  
9 Mr. Wilson, Mr. Eryurek said about Ms. Bennett, it's going to  
10 tell a very similar story to what Ms. Bennett -- I mean  
11 Ms. Rowe alleges was the discrimination that she encountered.

12 THE COURT: Just a second.

13 So it sounds like Bennett is coming up all over the  
14 place. Are we going to -- no?

15 MR. GAGE: I disagree. It all hinges on your Honor's  
16 ruling, frankly. I don't believe the plaintiff has alleged  
17 this is a pattern or practice case. And it's clear that, you  
18 know, plaintiff wants to get Bennett's name in here at every  
19 possible opportunity, in part because Mr. Chiarello went out on  
20 a limb in his opening statement and mentioned her name.

21 And how another person was leveled, particularly  
22 Ms. Bennett, is not at all relevant. Frankly, plaintiff has  
23 all along insisted the only people who the jury should hear  
24 about are the five L9s.

25 THE COURT: All right. Well, I also am not convinced

NACVROW1

1 that the plaintiff -- that I can accept the plaintiff's own  
2 testimony regarding other employees alleged discrimination as  
3 competent evidence. So I have to still think about that.

4 But it would be helpful to know how many -- which  
5 witnesses -- this is going to bear on my ruling and whether we  
6 have -- if you could point out to me if there are other  
7 exhibits where there's an objection having to do with  
8 Ms. Bennett, that would be helpful. You don't have to do it  
9 immediately, I just need --

10 MS. GREENE: Yes, your Honor.

11 THE COURT: Thank you.

12 Turning to the joint limiting instruction, Mr. Gage  
13 and Ms. Tomezsko, I wasn't sure -- oh, I'm sorry, you offered  
14 your own.

15 MR. GAGE: Yes.

16 THE COURT: Okay. Can anyone hand me the page where  
17 you offered your --

18 MR. GAGE: I guess 29.

19 THE COURT: Okay. While we do that, I'm going to ask  
20 you about the severance agreement, Mr. Shaukat's separation  
21 agreement.

22 Okay. So Ms. Greene, that agreement is dated July  
23 2020, right? That's three years ago. So what does that have  
24 to do with what he's saying now?

25 MS. GREENE: So that was in July 2020, shortly after

NACVROW1

1 Ms. Rowe filed her lawsuit. And Google was on notice of her  
2 lawsuit and Mr. Shaukat's involvement in that. There was a  
3 unilateral offer to pay him \$2.75 million as he left for  
4 another job. And the agreement included a favorable  
5 cooperation provision related to litigation that applied to  
6 this lawsuit. And so it absolutely goes to the motivation and  
7 bias of a witness. In other circumstances, maybe not; but in  
8 these unique circumstances where it was entered after the  
9 initiation of litigation, where the consideration was  
10 unilaterally offered and where it was done in exchange for a  
11 cooperation provision related to this litigation --

12 THE COURT: Where is that? I'm looking at the  
13 agreement.

14 MS. GREENE: Your Honor, let me pull up the agreement  
15 itself.

16 MS. TOMEZSKO: Your Honor, may I hand up the hard  
17 copy?

18 THE COURT: Yes, please.

19 MS. GREENE: The paragraph, the relevant paragraph, is  
20 No. 5 in Exhibit 148. And importantly, it requires the  
21 cooperation with Google and explicitly excludes Mr. Shaukat  
22 from talking to anyone but Google, unless legally compelled to  
23 do so. So it's a lockup, in addition to a cooperation  
24 provision. They're paying him, in addition to the  
25 consideration of 2.775 million for this agreement, they are

NACVROW1

1 covering his costs, his out-of-pocket expenses, and his legal  
2 fees.

3 THE COURT: Okay. But I'm looking at that now, at  
4 paragraph 5. The problem I have is that the *Morgan Art*  
5 *Foundation* case that you cited, the settlement agreement there  
6 was about the exact dispute. This does not reference the  
7 dispute with Rowe; this looks like boilerplate, what goes in  
8 every severance agreement.

9 MS. GREENE: Your Honor, Mr. Shaukat left voluntarily  
10 to go to another job. He was not -- that was his testimony.  
11 He was not terminated, he was not fired, there was no  
12 settlement. Instead, Mr. Kurian offered him separation pay at  
13 \$2.775 million in an agreement that required him to continue to  
14 cooperate.

15 The litigation he was involved in at that time was  
16 this case. It goes to, you know, his credibility and bias as a  
17 witness. And, you know, honestly, your Honor, I don't have to  
18 use the document if I can question him about the circumstances  
19 of a separation and whether he entered into that sort of an  
20 agreement and the value that was paid to him. I don't have to  
21 use the document. Testimony is sufficient for that.

22 THE COURT: Mr. Gage.

23 MR. GAGE: If they are not pushing the exhibit, then I  
24 guess that makes it moot, your Honor. But your Honor is  
25 correct, this is boilerplate language; it is a standard



NACVROW1

1 separation package. And while the number is eye-popping to  
2 most of us, this is Google.

3 THE COURT: I find this to be distinguishable from the  
4 *Morgan Art Foundation* case and the document will not come in.

5 So now we have the question about the testimony.  
6 Mr. Gage, what's your position on that?

7 MR. GAGE: I don't have a problem with them asking  
8 Mr. Shaukat --

9 THE COURT: I think we all know what his answer is  
10 going to be.

11 MR. GAGE: About circumstances of his departure. And  
12 he'll explain that Mr. Kurian made a decision he was going in a  
13 different direction, they agreed on his departure and  
14 transition, and everything like that. It's pretty  
15 straightforward.

16 THE COURT: Right. So that's resolved.

17 I think now we ought to bring the jury in and we'll  
18 continue today. If somebody can work on the list relating to  
19 Bennett, that would be helpful.

20 MR. GAGE: We've got someone working on it, Judge.

21 THE COURT: Okay. Thank you.

22 Oh, wait a second. We didn't do the stipulation -- or  
23 the instruction. Do we need that now? We need to decide that  
24 now, right?

25 MS. GREENE: We do need to decide that now, your

NACVROW1

1 Honor.

2 MR. GAGE: I think so, your Honor.

3 THE COURT: Hang on.

4 MR. GAGE: Dueling paragraphs there, Judge.

5 Should I wait to have Mr. Shaukat take the stand or is  
6 it okay if while you're doing this --

7 THE COURT: I don't want him to hear this.

8 MR. GAGE: Okay. That's fine.

9 THE COURT: Thank you.

10 MR. GAGE: I just want to keep things moving.

11 THE COURT: I understand.

12 MS. GREENE: Your Honor?

13 THE COURT: Yes, I'm about to read it to you.

14 Go ahead.

15 MS. GREENE: Oh, we were just going to ask for the  
16 time check.

17 THE COURT: Oh, yes. Ms. Williams, if you could do  
18 that. If you could provide that, please.

19 THE DEPUTY CLERK: So far, plaintiff counsel have used  
20 271 minutes, total remaining is 449. Defense counsel, you have  
21 used 119 minutes, total, 601; 601 remaining.

22 THE COURT: Okay. I have blended these two  
23 paragraphs. And I do want to use the effect on language from  
24 Judge Schofield's ruling on the second motion *in limine* because  
25 that's the language that she chose and I think it makes sense.

NACVROW1

1 So here's what I'm going to read:

2 In certain instances, evidence may be admitted only  
3 for a limited purpose. You have heard evidence from Tariq  
4 Shaukat and you may hear evidence from Stuart Vardaman that --  
5 it says "he," I think we mean "they," right, they received  
6 interview feedback about Ms. Rowe concerning her consideration  
7 for the financial services vertical lead position.

8 This evidence is admitted for a limited purpose. It  
9 is admitted only for its effect on Tariq Shaukat or Stuart  
10 Vardaman upon hearing the alleged feedback. You have may not  
11 consider evidence of alleged interview feedback concerning the  
12 financial services vertical lead position for its truth,  
13 meaning you may not consider any evidence of alleged interview  
14 feedback as evidence of Ms. Rowe's actual qualifications for  
15 the financial services vertical lead position or that the  
16 interviewers actually held those views. You may give such  
17 evidence, if received, such weight as you feel it deserves, but  
18 only for the limited purpose for which it has been offered.  
19 You may not use the evidence for any other purpose.

20 All right. Let's bring the jury in.

21 MR. GAGE: Shall we have Mr. Shaukat take the stand  
22 while that's happening?

23 THE COURT: Yes, yes, we should.

24 MR. GAGE: And your Honor, it's Tariq.

25 THE COURT: Tariq.

NACVROW1

1 MR. GAGE: Not Tariq.

2 THE COURT: Oh, okay. Thank you.

3 MR. GAGE: But you've got the last name down.

4 THE COURT: I think I will -- when is Vardaman taking  
5 the stand?

6 MR. GAGE: After Mr. Shaukat.

7 THE COURT: All right. So I'm going to start with  
8 this, because why not. Otherwise we'll have to find a good  
9 time later. This seems like a good a time as any.

10 (Jury present)

11 THE COURT: Good morning. You may be seated. Thank  
12 you all again, members of the jury for your service. In a  
13 moment, we'll resume testimony, but first I have an instruction  
14 for you.

15 In certain instances, evidence may be admitted only  
16 for a limited purpose. You have heard evidence from Tariq  
17 Shaukat and you may hear evidence from Stuart Vardaman that  
18 they received interview feedback about Ms. Rowe concerning her  
19 consideration for the financial services vertical lead  
20 position. This evidence is admitted for a limited purpose. It  
21 is admitted only for its effect on Tariq Shaukat or Stuart  
22 Vardaman upon hearing the alleged feedback.

23 You may not consider evidence of alleged interview  
24 feedback concerning the financial services vertical lead  
25 position for its truth, meaning you may not consider any

NACVROW1

Shaukat - Direct

1 evidence of alleged interview feedback as evidence of  
2 Ms. Rowe's actual qualifications for the financial services  
3 vertical lead position or that the interviewers actually held  
4 those views. You may give such evidence, if received, such  
5 weight as you feel it deserves, but only for the limited  
6 purpose for which it has been offered. You may not use the  
7 evidence for any other purpose.

8 All right. Ms. Greene.

9 TARIQ SHAUKAT,

10 called as a witness by the Plaintiff,

11 having been previously duly sworn, testified as follows:

12 DIRECT EXAMINATION (continued)

13 BY MS. GREENE:

14 Q. Good morning, Mr. Shaukat.

15 A. Good morning.

16 Q. We concluded your testimony yesterday watching a clip of  
17 your deposition where you said: I decided that Stuart would be  
18 the interim lead before I told Ulku that we were shutting down  
19 that search; and if we reopened it, that she would not be a  
20 candidate in it -- for it in the future. Do you recall that?

21 A. Yes, I do.

22 Q. Okay. So when you appointed Mr. Breslow as the head of  
23 financial services, you didn't refer to him as the interim head  
24 when talking about him with customers or people outside of  
25 Google, did you?

NACVROW1

Shaukat - Direct

1 A. First of all, I appointed him as interim head, just to be  
2 clear. Externally, Stuart asked me what he should say. He was  
3 very careful to represent himself accurately. And I told him  
4 that for customers only, he was to refer to himself as the  
5 person leading financial services. So I told him to not use  
6 "interim," because I thought it would raise questions with  
7 customers about the stability of our financial services  
8 organization.

9 Q. Okay. This is a yes-or-no question: You, yourself, did  
10 not refer to him as the interim head when talking about him  
11 with customers or people outside of Google; correct?

12 A. I can't answer that question yes or no, because I don't  
13 recall ever referring to him by his title with customers.

14 Q. But you did tell him very directly to introduce himself as  
15 the head of financial services; correct?

16 A. In response to his question about whether he should or not,  
17 yes.

18 Q. Now, again, this is a yes-or-no question: You did not tell  
19 people internally -- internally now -- that he was the interim  
20 head unless you were asked officially; isn't that correct?

21 A. I don't believe that is correct, no. I did -- in any  
22 announcement that we made about the lead -- the leadership of  
23 the financial services vertical, and with all my other  
24 verticals where I had interim leads, I was very careful to, in  
25 the official communications, try and say that. In informal

NACVROW1

Shaukat - Direct

1 communications we don't -- I don't recall when I did or did not  
2 use "interim." But it was not -- I was very careful to point  
3 out where it was interim and where it was not in official  
4 communications.

5 Q. So you would say to people, our financial services team is  
6 led by Stuart Breslow typically; correct?

7 A. When you say "people," you mean people internally to the  
8 company?

9 Q. Yes.

10 A. Again, when it was an informal communication, I think I  
11 probably dropped the "interim" from time to time. Yes, I  
12 likely referred to him in both -- in both ways.

13 Q. Generally, not some of the time, generally, you framed it  
14 as without that "interim" title in discussing Mr. Breslow's  
15 role *vis-à-vis* the financial services; correct?

16 A. No, I would say that is incorrect. As I mentioned, I  
17 didn't normally refer to people by their title, and I don't  
18 recall introducing Stuart all that often to people inside of  
19 the company.

20 MS. GREENE: Let's pull up deposition 256, line 15,  
21 through 257, line 2.

22 MS. TOMEZSKO: I'm sorry, can you repeat that.

23 MS. GREENE: 256, line 15, through 257, line 2.

24 MR. CHIARELLO: Would your Honor like a copy of  
25 Mr. Shaukat's deposition?

NACVROW1

Shaukat - Direct

1 THE COURT: I'll watch it. You're going to play it,  
2 right? Thank you, Mr. Chiarello.

3 MS. GREENE: You may go ahead.

4 Thank you, Vincent, Mr. Yang.

5 THE WITNESS: I'm sorry, my monitor is not working.

6 THE COURT: Oh, okay.

7 THE WITNESS: I have it now. Thank you.

8 (Video played)

9 MS. GREENE: Okay. You can take that down.

10 BY MS. GREENE:

11 Q. Let's look now at Plaintiff's Exhibit 82. Do you recognize  
12 this as correspondence between you and Mr. Ladd from September  
13 of 2019?

14 A. September 2019, yes.

15 MS. GREENE: Okay. If we can go to the page ending in  
16 5, Mr. Yang. And if we can call out the section international,  
17 so the first one under that.

18 Q. It's an announcement of an article that was in *Vogue*; is  
19 that correct?

20 A. Yes.

21 Q. That says: Following an interview with Ulku Rowe, Google's  
22 technical director of financial services, Varela discusses one  
23 strength of the cloud is that companies no longer need to  
24 invest in large teams. And then it goes on to talk more about  
25 what Ms. Rowe explained. Do you see that?



NACVROW1

Shaukat - Direct

1 A. I do.

2 MS. GREENE: Let's take that down. Not the full  
3 document, just that. And if we can flip back a page. And if  
4 we can call out the 12:30 p.m. for Mr. Shaukat.

5 Q. This says: Just a note -- we have to stop using Ulku as a  
6 financial services person, given she has moved off of the  
7 financial services team and is now supposed to be our OCTO  
8 hybrid cloud person.

9 That's what you wrote; correct?

10 A. Correct.

11 MS. GREENE: And then let's flip back another page --  
12 oh, I'm sorry. If you can go back to where we were, Mr. Yang.

13 Q. And up at the top, do you see --

14 MS. GREENE: And can you call out "good flag."

15 A. I do.

16 Q. It says: Good flag. Agreed. We're media training Stuart  
17 on Tuesday, so we can start to use him with the press.

18 Do you see that?

19 A. I do.

20 Q. So as of September of 2019, ten months after you decided  
21 Mr. Breslow was going to have the interim role, he still wasn't  
22 media trained in order to work with the press on issues of  
23 financial services; correct?

24 A. The primary job description is not to meet with the press  
25 in his role, so correct.

NACVROW1

Shaukat - Direct

1 Q. So he didn't have the qualifications of speaking with the  
2 press about the financial services role in the same way that  
3 Ms. Rowe did; isn't that right?

4 A. No, that's incorrect. Again, media training has nothing to  
5 do with his qualifications to speak about financial services.  
6 It was not media training in the financial services space.

7 Media training is training that Google and every  
8 company gives people who speak to the press on how to handle  
9 press questions. We had assumed and I had assumed that Stuart,  
10 given his experience, had been media trained previously. But  
11 he had not gone through the Google media training and they  
12 wanted to put him through that training.

13 Q. So after ten months, he still wasn't in a position to speak  
14 with the press on issues of financial services?

15 A. Correct. Which was not his job.

16 Q. Mr. Shaukat, you left Google in 2020; correct?

17 A. July of 2020, yes.

18 Q. And you did so because you had another job at Bumbl;  
19 correct?

20 A. I left and went to another job at Bumbl. But I had decided  
21 to leave Google for other reasons.

22 Q. And when you left, Google gave you a severance package;  
23 correct?

24 A. They did, yes.

25 Q. Thomas Kurian came, the CEO of Google Cloud, and offered

NACVROW1

Shaukat - Direct

1 you severance of \$2.775 million; is that right?

2 A. I don't recall the exact amount, but that sounds roughly  
3 about right, yes.

4 Q. You didn't negotiate for that amount, right?

5 A. I did not negotiate that amount, no.

6 Q. Mr. Kurian made an offer and you accepted it, that's how it  
7 went; correct?

8 A. I didn't negotiate that amount. I negotiated other parts  
9 of my severance agreement with him, but not the amount, no.

10 Q. So, for instance, you negotiated COBRA; correct?

11 A. I did negotiate COBRA, yes, which is ongoing health  
12 insurance coverage.

13 Q. Now, one of the conditions of that -- well, in exchange for  
14 the \$2.775 million that you received as you were leaving to go  
15 to Bumbl, you had to enter into a separation agreement;  
16 correct?

17 A. I did, yes.

18 Q. And one of those conditions of the separation agreement was  
19 that you would provide continued litigation assistance to  
20 Google; correct?

21 A. I think that would be normal. I don't recall my specific  
22 separation agreement, but I think that would be normal, yes.

23 Q. Well, one of the conditions was that you would continue to  
24 provide Google with assistance related to its legal matters;  
25 correct?

NACVROW1

Shaukat - Direct

1 A. Again, I believe that would be correct. It would be  
2 normal. I don't remember the agreement in particular.

3 Q. And in 2020, this litigation was already happening;  
4 correct?

5 A. I believe so, yes.

6 Q. And you had already been interviewed by ER in connection  
7 with this lawsuit; correct?

8 A. I had been. Whether that was prior to Thomas making the  
9 offer -- the back and forth between Thomas and I went on for  
10 several months. But it was around that same time, yes.

11 Q. The lawsuit was filed in September of 2019. So does that  
12 refresh that this lawsuit was ongoing at the time --

13 A. Again, you had asked about when I was interviewed by ER as  
14 opposed to when the lawsuit was there. And I don't recall the  
15 timing in relation to the ER interview.

16 Q. And were you involved in any other litigation on Google's  
17 behalf at that time?

18 A. I had a large number of legal holds because I dealt with  
19 customers. And other areas of the cloud business that were --  
20 there were various legal matters associated with them, customer  
21 contract disputes, that sort of thing. There was no active  
22 litigation as I'm aware of, but there were legal holds, as they  
23 call it.

24 Q. No active litigation other than this litigation; correct?

25 A. That I'm aware. But it wasn't -- yeah, that I was aware of

NACVROW1

Shaukat - Direct

1 at the time.

2 Q. And one of the provisions of that continued litigation  
3 assistance was that you would give information and cooperate  
4 with Google, but that you wouldn't do it with anybody else;  
5 correct?

6 A. I don't remember the specifics of the agreement.

7 Q. Well, let's look at it just for the purpose of refreshing  
8 recollection, not to publish to the jury, if we may.

9 THE COURT: Hold on.

10 Mr. Gage, are you -- okay. So we're going to --

11 MR. GAGE: Just show it to the witness; correct.

12 THE COURT: Correct.

13 MS. GREENE: Not to publish to the jury.

14 THE COURT: Correct.

15 MS. GREENE: And not to be offered into evidence.

16 Q. Can you see this on your screen, Mr. Shaukat?

17 A. I can.

18 Q. Can you go to the second page and look at the paragraph  
19 "Continued Litigation Assistance," paragraph 5?

20 A. I see it.

21 Q. And do you see where it says: You agree to discuss  
22 litigation, such litigation or litigation-related matters with  
23 and give information about such matters to the company's legal  
24 department or its outside counsel or both, but not with anyone  
25 else, including other nonlegal department company employees,

NACVROW1

Shaukat - Cross

1 unless legally compelled to do so.

2 Does that refresh your recollection about your  
3 agreement that you would cooperate with Google, but nobody  
4 else, about litigations in which you were involved?

5 A. That is -- that is what the document says, yes.

6 MS. GREENE: No further questions.

7 CROSS-EXAMINATION

8 BY MR. GAGE:

9 Q. Good morning, Mr. Shaukat.

10 A. Good morning.

11 Q. I've got a few things I want to cover. We'll try to do it  
12 efficiently. There are a couple that I want to follow up on  
13 from your testimony yesterday in response to Ms. Greene's  
14 questions.

15 Were you at all involved in the decision to hire  
16 Ms. Rowe and set her level when she was hired?

17 A. I was not.

18 Q. Were you at all involved in the leveling decisions for  
19 Evren Eryurek, Paul Strong, Ben Wilson, Nick Harteau, or any  
20 other technical directors hired in OCTO?

21 A. I was not.

22 Q. And do you have any reason to believe that Ms. Rowe was  
23 under-leveled at hire?

24 A. I do not.

25 Q. Changing topics for a second.

NACVROW1

Shaukat - Cross

1 Ms. Greene asked you some questions about some big  
2 banks. And do you remember yesterday being asked some  
3 questions about Bank of America? And I believe you testified  
4 that people from Bank of America were not calling you looking  
5 for Ms. Rowe, do you remember that testimony?

6 A. I do.

7 Q. Who were they calling looking for, if you recall?

8 A. Bank of America, I don't recall any specific asks that they  
9 made.

10 Q. Do you recall any large banks making specific asks for  
11 individuals on your team?

12 A. I do recall several large banks making asks for  
13 Mr. Breslow, largely their legal and compliance officers and  
14 their financial crimes divisions. HSBC, Société Générale - I'm  
15 butchering the French name - were two examples of companies  
16 that did.

17 Q. Now, change topics again here.

18 You used the phrase yesterday "a poll system." Do you  
19 remember referring to a poll system?

20 A. Yes.

21 Q. Can you tell the ladies and gentlemen of the jury what you  
22 meant by a poll system?

23 A. Sure. In that context, I believe it was that I make myself  
24 available to my team as they request it. So they have to pull  
25 for it. There are times, I think in September of 2018, I had

NACVROW1

Shaukat - Cross

1 25 or 26 people in my staff meeting. It's impossible -- I  
2 would spend my whole week doing one-on-ones with people if I  
3 had to schedule all of them. So I basically made it known that  
4 if they needed me, they could let me know and I would make the  
5 time available for them. So they had to pull on a demand.

6 Q. And did you expect people on your team to act  
7 independently?

8 A. I did. It's one of the requirements of the job.

9 Q. And were the people on your team generally executives or  
10 considered by you to be executives?

11 A. For the most part. There were some who were more earlier  
12 in their career; but for the most part, yes.

13 Q. Was Ms. Rowe among the people you expected to act  
14 independently?

15 A. She was, yes.

16 Q. Shift to another topic that you talked about yesterday.

17 Is it fair to say that the first time you ever learned  
18 that Ms. Rowe thought her level may relate to her gender was  
19 when you received the November 7th email that went to you and  
20 Ms. Greene?

21 A. I believe that is correct. As we said yesterday, I think  
22 she had raised that she thought she was misleveled. But I  
23 don't recall her ever referring to that as being because of her  
24 gender.

25 Q. And prior to that earlier in the year, I think you



NACVROW1

Shaukat - Cross

1 testified that she had told you that she was promised the role  
2 as the head of the vertical -- the financial services vertical;  
3 is that correct?

4 A. I think that's right, yes.

5 Q. And is that something that you followed back up with  
6 Mr. Grannis and/or Mr. Stevens about, that is, her assertion to  
7 you that she had been promised the role?

8 A. I was surprised. So I'd asked them if they had recalled  
9 doing that, and they said they had not or that they did not  
10 recall doing that.

11 Q. I want to pivot to some general questions.

12 I think you talked about your educational background  
13 yesterday; is that correct?

14 A. Yes.

15 Q. And you have a bachelor's and master's; correct?

16 A. I have a bachelor's and two master's degrees.

17 Q. And two master's degrees.

18 And the two master's degrees are from where?

19 A. M.I.T. and Stanford. Massachusetts Institute of Technology  
20 and Stanford University.

21 Q. Okay. And what are those two master's degrees?

22 A. From Stanford, it was mechanical engineering; and from  
23 M.I.T., it was in what they call technology and policy, largely  
24 a public policy and engineering degree.

25 Q. Now, prior to joining -- well, could you just please

NACVROW1

Shaukat - Cross

1 briefly describe your employment history from the time that you  
2 finished your two master's until the time that you arrived at  
3 Caesars, which is your job just prior to Google?

4 A. Sure. So I left school. I joined a data and analytics  
5 manufacturing company for a very brief period of time, they  
6 unfortunately went out of business.

7 I then joined a consulting company focused on the  
8 technology industry, where I advised companies on growth  
9 strategies for their technology products, companies like IBM,  
10 Eli Lilly, and the like.

11 I then joined an enterprise software company that was  
12 quite well-known at the time called Trilogy Software. And  
13 there I was in the product and solutions world; so I helped  
14 design products and sell them to customers.

15 Following that, I did a start-up that was unsuccessful  
16 in the social media space. And then I worked at a company  
17 called McKinsey & Company, which is a global strategy  
18 consulting company. Rose to the level of partner there, stayed  
19 there for approximately seven years or so. There I focused on  
20 technology-enabled businesses, like financial services, media  
21 and entertainment.

22 And then I was recruited away to be first chief  
23 marketing officer and then chief commercial officer of Caesars  
24 Entertainment.

25 Q. And you mentioned the Caesars job yesterday. Can you

NACVROW1

Shaukat - Cross

1 explain to the ladies and gentlemen of the jury what the scope  
2 of your responsibilities at Caesars was at the time you left?

3 A. At the time I left -- so Caesars, if you're not familiar  
4 with the company, is a casino entertainment company. It  
5 controlled 40 percent of the hotel and casino market in  
6 Atlantic City, about a third of the casino and hotel market in  
7 Las Vegas, and a number of other areas around the country. I  
8 think it was considered the largest casino company at the time.

9 I ran all of the centralized functions of the company  
10 which would be five, 6,000 people, I think. And that included  
11 marketing, sales, information technology, data analytics, the  
12 live concert business, the catering business, the gaming  
13 business. "Gaming" meaning the gambling business inside of  
14 Caesars. And I reported to the CEO of the company.

15 Q. Who hired you at Google?

16 A. Diane Greene.

17 Q. And what was the first job you were hired to do at Google?

18 A. I was hired as president of enterprise sales was the title  
19 when I joined.

20 Q. And at the time you joined as president of enterprise  
21 sales, where was Google, if you will, in the marketplace for  
22 cloud, enterprise cloud services?

23 A. Depending on how you counted it, we were number eight or  
24 number nine in the market. We had less than a billion dollars  
25 in revenue in the cloud. And we had two parts of the business,

NACVROW1

Shaukat - Cross

1 the primary part that we're referring to today is called Google  
2 Cloud Platform. We had about 50 salespeople in Google Cloud  
3 Platform at that time.

4 Q. And how long did you do that job?

5 A. Approximately a year and a half, maybe a year -- between a  
6 year and a quarter, a year and a half.

7 Q. Okay. Did there come a point where Ms. Greene asked you to  
8 do something different?

9 A. She did, yes.

10 Q. What did Ms. Greene ask you to do next?

11 A. She asked me to help recruit my successor as head of  
12 enterprise sales. And then having built that function, she  
13 wanted to build a number of other functions, including our  
14 partnerships with other people in the cloud ecosystem,  
15 including our data center and geographic expansion strategy,  
16 including our pricing strategies and including these industry  
17 verticals that they were making central to the strategy of the  
18 business.

19 Q. And before we go on to talk about that, you indicated how  
20 big the sales team was when you started as president of  
21 enterprise sales. Can you tell us the size of the sales team  
22 when you handed off that responsibility and the size of the  
23 business at that point?

24 MS. GREENE: Objection. Relevance. Especially in  
25 light of your Honor's ruling yesterday.

NACVROW1

Shaukat - Cross

1 THE COURT: Mr. Shaukat was questioned quite  
2 extensively yesterday on his background and his different  
3 roles. And now I'm going to allow Mr. Gage to do the same.

4 Overruled.

5 A. Can you repeat the question, please.

6 Q. Sure. At the time Ms. Greene asked you to take a different  
7 job, what was the size of the sales force and approximately the  
8 size of sales or the amount of sales annually?

9 A. At that time, roughly speaking, it would -- that 50-people  
10 sales team would have been several 100, perhaps approaching  
11 1,000. I'm a little fuzzy on the exact dates. And the  
12 business would have grown from about a billion to maybe two and  
13 a half billion. Again, that was by the end of that year, so  
14 not the exact time frame.

15 Q. When you say "by the end of that year," was it towards the  
16 end of 2017 that Ms. Greene asked you to take on this new job?

17 A. The middle to end of 2017, that's right.

18 Q. And I've seen the term "global alliances and industry  
19 platforms." What does that refer to?

20 A. That was an attempt to have a shorthand for all of the  
21 disparate functions that was in my team. So global alliances  
22 being partnerships. Industry platforms was meant to indicate  
23 that the industry teams were not just sales teams but, in fact,  
24 these business units essentially.

25 Q. And how was this different than the sales job you had?

NACVROW1

Shaukat - Cross

1 A. In a number of ways. The industry -- you mean the industry  
2 piece or the job itself?

3 Q. The industry piece.

4 A. Industry piece.

5 We were attempting, as I mentioned, to make this the  
6 central differentiation for Google in the cloud business, as we  
7 were trying to become number three, the number two, the number  
8 one. We set these up as business units. And this was, to my  
9 knowledge, the only place in Google that was set up as business  
10 units at this time.

11 What that meant was that reporting to me very  
12 atypically for Google was product engineering and what we call  
13 business development, which is different from sales because  
14 it's about cultivating relationships as opposed to, you know,  
15 sign on the dotted line for a piece of technology equipment.  
16 So it was really meant to be a comprehensive approach to each  
17 of the industry verticals.

18 (Continued on next page)

19  
20  
21  
22  
23  
24  
25

NACHRow2

Shaukat - Cross

1 THE COURT: Mr. Gage, are you approaching the  
2 conclusion of this line of questioning?

3 MR. GAGE: Yes. In other words, could I wrap it up  
4 quickly for our quarter after break?

5 THE COURT: Actually, we don't have a break for a  
6 little bit, but I'm wondering if you're going to reach the end  
7 of this line soon.

8 MR. GAGE: Oh, I don't know if it's an official line,  
9 but I am transitioning and it's evolving, your Honor, I'll put  
10 it that way.

11 THE COURT: OK.

12 BY MR. GAGE:

13 Q. Were you planning to hire something referred to as a  
14 vertical lead?

15 A. I was, yes.

16 Q. And what — am I moving on sufficiently, Judge?

17 THE COURT: I'll let you know in a minute.

18 MR. GAGE: OK.

19 Q. What did you expect from these vertical leads?

20 A. Because this was early in cloud and we were trying to  
21 establish ourselves, we needed somebody who could articulate a  
22 vision, because in most cases — on the product side, because  
23 in most cases there was not a product strategy in place for  
24 these industries. We wanted somebody who had the commercial  
25 acumen. These were not technology sales. These were sales

NACHRow2

Shaukat - Cross

1 that were meant to feel more like partnerships. We were  
2 solving a business problem as opposed to a technology problem,  
3 so we wanted somebody who could handle the business side, if  
4 you will, as well the technology side. And because we were  
5 trying to establish ourself, the lead role should have some  
6 level, if you'll pardon the expression, of issue clout. They  
7 should be a known entity in the industry.

8 Q. Who was the first vertical lead that joined your team?

9 A. His name was Greg Moore. He joined for health care.

10 Q. For health care.

11 And briefly, if you could describe for the jury what  
12 Mr. Moore's background was at the time he took that role.

13 A. He was a medical doctor with a specialty, I believe, in  
14 neurology. He also had a Ph.D. in nuclear physics from MIT. I  
15 don't recall where his medical degree was from. He had then  
16 worked as the chief innovation officer at a health system in  
17 Pennsylvania called Geisinger, which is the largest health  
18 system in Pennsylvania. And he was a known authority on the  
19 application of artificial intelligence in the health care  
20 world.

21 Q. I'll come back to the vertical leads in a little bit, but  
22 you were asked a number of questions yesterday about  
23 Mr. Breslow, and I want to give that a little bit more context.

24 Did you hire someone into a role called director of  
25 technology and policy?



NACHRow2

Shaukat - Cross

1 A. Yes, that was Mr. Breslow.

2 MR. GAGE: I'd like to show the witness an exhibit,  
3 your Honor, without showing the jury, D54.

4 THE COURT: For what reason are you showing it to him  
5 without showing it to the jury?

6 MR. GAGE: Because I'm going to lay a foundation, and  
7 then I'm going to move to admit it, your Honor.

8 Q. Mr. Shaukat, do you recognize this document? That's just a  
9 yes-or-no question.

10 A. Yes.

11 Q. Is this a document that you considered at the time you  
12 hired Mr. Breslow?

13 A. I would have seen it at that time, yes.

14 MR. GAGE: Your Honor, I'd move the admission of  
15 Exhibit 54.

16 THE COURT: Any objection?

17 MS. GREENE: There's no objection to this exhibit.

18 THE COURT: It's admitted.

19 MR. GAGE: May I publish to the jury?

20 THE COURT: Yes, you may.

21 (Defendant's Exhibit 54 received in evidence)

22 MR. GAGE: I apologize I asked again. There was an  
23 objection previously, so I was proceeding cautiously.

24 THE COURT: Caution is the better part of valor.

25 MR. GAGE: Thank you, your Honor.

NACHRow2

Shaukat - Cross

1 BY MR. GAGE:

2 Q. I'd like you to take a look at this quickly. Mr. Shaukat,  
3 could you just briefly describe to the jury what about  
4 Mr. Breslow's background led you to hire him for this role.

5 A. Well, there are a number of different aspects. Primarily,  
6 it wasn't as much the McKinsey & Company, which was the most  
7 recent part of the work experience, though I'll come back to  
8 that in a moment, but he was a C-level executive, chief  
9 compliance officer at one of the largest banks in the world,  
10 Morgan Stanley, and he had done that role for over a decade.  
11 So he was deeply known and experienced.

12 One of the areas that we were hiring him for was  
13 relationships with financial regulators, or with regulators in  
14 general, and experience dealing with them. As you can see in  
15 here, he refers to his work with financial regulators like the  
16 Federal Reserve fairly continuously — fairly often in this  
17 document.

18 The other piece that was interesting was the mention  
19 of AML, which stands for anti-money laundering, and this was an  
20 area that a number of our clients were starting to ask about,  
21 whether we could help them with compliance with anti-money  
22 laundering laws, and this was something that was of interest, I  
23 would say probably secondary interest, to his experience with  
24 regulators.

25 Q. If you know, could you briefly explain to the jury what

NACHRow2

Shaukat - Cross

1 anti-money laundering laws are.

2 A. Sure. So my layman's understanding of this is banks have  
3 an obligation to determine the source of any funds that go to  
4 the bank and to ensure that it is not money that is being  
5 laundered for illicit purposes, for terrorism or drug  
6 smuggling, and the like.

7 MR. GAGE: We can take down D54. I'd like to now turn  
8 to Plaintiff's Exhibit 115, and I believe the jury can see that  
9 it's a plaintiff's exhibit.

10 I'd like to just page through this slowly, if we  
11 could, Jean. Go to the second page.

12 Q. Mr. Shaukat, is this the hiring packet for Mr. Breslow?

13 A. It appears to be, yes.

14 Q. Now I'd like to go back to the first page, and on page 1  
15 I'd just like to — is it page 1? I'd like to go where it says  
16 "internal references." Maybe that's page 2.

17 A. I don't see internal references, I'm sorry.

18 Q. There we go, page originals.

19 A. Oh, yes.

20 Q. You see where it says Ruth Porat?

21 A. I do.

22 Q. Who is Ruth Porat and what was she doing at the time?

23 A. Ruth Porat at the time was the chief financial officer of  
24 Google and its parent company, Alphabet. She had previously  
25 been the chief financial officer of Morgan Stanley.

NACHRow2

Shaukat - Cross

1 Q. OK. Morgan Stanley, is that where Mr. Breslow worked  
2 previously?

3 A. It was, yes.

4 Q. Does this reflect her internal reference for him at the  
5 time he was being considered for the position?

6 A. Yes.

7 Q. I'd like to turn to the next section. Does this reflect  
8 that Brian Stevens interviewed Mr. Breslow?

9 A. It does, yes.

10 Q. And can you remind the jury who Brian Stevens was at Google  
11 at the time.

12 A. At the time I believe he was chief technology officer of  
13 Google Cloud.

14 MR. GAGE: If we could go to the next page, if we can  
15 highlight at the top that section so the jury can see it.

16 Q. It says: "More than qualified. Good grasp of requirements  
17 we'd need to manage. Only open question I had was on cultural  
18 fit, as he'd been in a very different company org and role than  
19 he's been used to," and it says, "Lean hire."

20 What does that mean in the context of Google's hiring  
21 process?

22 A. Meaning that — leaning hire means that Brian was a  
23 positive on his hire, but not, as I would call, a table  
24 pounding for it.

25 Q. Did you have any questions in your mind as to whether

NACHRow2

Shaukat - Cross

1 Mr. Breslow would be a cultural fit?

2 A. It's something that we always considered, and I think it  
3 was a little bit of a risk in hiring anybody from industry, and  
4 Stuart was no exception to that.

5 Q. When you say a little risk of hiring someone from industry,  
6 what do you mean when you say "from industry"?

7 A. Oh, I'm sorry. Google is a very eclectic place culturally  
8 speaking, and sometimes if you grow up in a very  
9 command-and-control environment in, for example, a company like  
10 Morgan Stanley, people have trouble adapting to the more  
11 free-flowing ways of Google, if you will. So with that, that's  
12 essentially what we screen for.

13 MR. GAGE: I'd like to just flip to the next page.  
14 Jean, if you could highlight where it begins the word "lawyer."  
15 That's what I was looking for. Thank you.

16 Q. You see it says, "Lawyer then joined MSWD. Led compliance  
17 at CSFB. Recruited by John Mack. John went back to MS and  
18 recruited him back to again lead compliance. Retired in 2016.  
19 Then went to McKinsey."

20 My question is simple. Do you know who John Mack is?

21 A. He was, I'll call it, legendary CEO of, at first, Credit  
22 Suisse First Boston, which is CSFB, and then Morgan Stanley.

23 Q. What does this say to you about Mr. Breslow as a candidate  
24 that you were hiring him into?

25 A. Again, we were looking for people who had deep industry

NACHRow2

Shaukat - Cross

1 credibility, and I used the word "clout" earlier. And if  
2 someone like John Mack, the CEO of two of the largest financial  
3 services companies in the world, actively brought Stuart with  
4 him from place to place, that spoke volumes, in my mind.

5 Q. Now I'd like to go to Dr. Moore's — we could skip that,  
6 Jean. We'll go to Dr. Moore's comments.

7 Did Dr. Moore interview Mr. Breslow?

8 A. I believe so. Yes, it looks like he did.

9 MR. GAGE: If we could just go, Jean, to — I think  
10 it's the next page of interview notes.

11 MS. GREENE: Your Honor, I'm going to object as to the  
12 relevance of this line of questioning.

13 MR. GAGE: May I respond, your Honor?

14 THE COURT: Let's have a sidebar.

15 (Continued on next page)  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

NACHRow2

Shaukat - Cross

1 (At sidebar)

2 THE COURT: Mr. Breslow is one of Ms. Rowe's  
3 comparators, is he not?

4 MR. GAGE: Correct.

5 THE COURT: We're talking about Mr. Breslow going  
6 through the interview and evaluation process, right? What's  
7 the —

8 MS. GREENE: So the issue with respect to Mr. Breslow  
9 as a comparator is one that is related to whether the equal pay  
10 law, whether they were performing the same work and receiving  
11 the same pay and similarly situated, and I'm curious for what  
12 purpose Mr. Gage is offering it.

13 MR. GAGE: Well, off the top of my head, I'll give you  
14 two good ones: One, Ms. Greene and through Ms. Rowe's  
15 testimony, they spent a fair amount of time trying to  
16 essentially disparage him and his qualifications, suggesting  
17 that he wasn't qualified to later become the acting or interim,  
18 or whatever, financial services vertical lead. So I should be  
19 entitled to show his qualifications to do that.

20 Second, plaintiff is claiming that he's doing the same  
21 work and being paid more. And on that claim, an essential  
22 element of our defense is to show that Google had non-gender  
23 reasons for paying him differently. We dispute that they were  
24 doing the same thing, but we also are entitled to show that  
25 we've got all these non-gender reasons for paying him

NACHRow2

Shaukat - Cross

1 differently than Ms. Rowe, and that relates to his  
2 qualifications. And so all of this is relevant to our defense,  
3 it's relevant to their claims, and they already attacked this  
4 guy's qualifications.

5 THE COURT: Yes, you did question extensively on  
6 Breslow's qualifications.

7 MS. GREENE: So these documents, as they're being  
8 offered, then, are hearsay they're.

9 MR. GAGE: It's your document.

10 MS. GREENE: For the purpose that we intended to use  
11 it, it wasn't a hearsay purpose.

12 MR. GAGE: It's in evidence now.

13 MS. GREENE: I'm just pointing out — let me finish my  
14 statement, Mr. Gage — it's being offered for the truth of the  
15 matter asserted, and there's not been any foundation laid that  
16 Mr. Shaukat reviewed or considered these documents in making a  
17 decision about whether to put Mr. Breslow in the interim role.

18 MR. GAGE: Judge, I hate to use the legal term, but  
19 the ship has sailed. They put this in evidence, so I can read  
20 from it. Counsel actually read from a document before she used  
21 to refresh the witness' recollection. That was inappropriate,  
22 but I didn't call it out because I didn't want to interrupt the  
23 proceedings. But you read from a document that was not in  
24 evidence, and that wasn't proper. This is in evidence.

25 THE COURT: Yes, the objection's overruled.



NACHRow2

Shaukat - Cross

1 (In open court; jurors present)

2 MR. GAGE: Where were we. Let's move on to  
3 Dr. Moore's interview notes, briefly.

4 I believe, Jean, these are on page 8 of the exhibit,  
5 says "Interview notes."

6 Q. See where it says: Able to easily pivot from his core  
7 background/training expertise finance into a discussion on  
8 health care with creative thinking" — if we could highlight  
9 the top of the next page — "exhibited great leadership  
10 presence."

11 Was the job Mr. Breslow was hired to do broader than  
12 just financial services?

13 A. It was, yes.

14 Q. How so?

15 A. The role of director of technology and policy was meant to  
16 help us with our regulatory and compliance stance across all  
17 industries. And financial services is one highly regulated  
18 industry, but health care's an example. The federal  
19 government, the Department of Defense is another example.  
20 Energy is another example. Stuart's remit was really to cover  
21 the full range of industries.

22 MR. GAGE: Just one last thing on this exhibit, Judge,  
23 then I'll move on.

24 If we can go to page 12, the interview notes from  
25 Fiona O'Donnell.

NACHRow2

Shaukat - Cross

1 Q. Who is Fiona O'Donnell?

2 A. She was my lead HR business partner at the time.

3 MR. GAGE: Now, if we could go to — see where she  
4 asked him a question about mentoring and in part says: "Look  
5 at his team and MS. Don't focus on who is what but had an even  
6 distribution on gender. Senior stakeholder relationship was  
7 with someone he hired in 2003. At the time she was a closet  
8 lesbian. No reason why need to be that way and worked with her  
9 to create a safe environment where she felt supported. He  
10 sponsored and advocated for her as she grew in her career and  
11 she eventually assumed a leadership role. Got her promoted to  
12 MD. She had competencies that he didn't, so it was a  
13 relationship that could benefit both from."

14 I have a simple question, what does this tell you  
15 about Mr. Breslow?

16 A. That he's good coach and manager, somebody who helps to  
17 develop his people.

18 Q. Was that important to you?

19 A. It was in general for every role that we hired.

20 MR. GAGE: OK. I'd like to show the witness  
21 Exhibit D40. Your Honor, I don't believe there should be an  
22 objection to this, but let's just show the witness now and see  
23 if plaintiff's counsel objects.

24 Just to the witness.

25 Counsel, is there an objection?

NACHRow2

Shaukat - Cross

1 MS. GREENE: I believe so, but we're just  
2 double-checking.

3 MR. GAGE: Let me know. If I need to lay a  
4 foundation, I will.

5 MS. GREENE: Yes, there's an objection.

6 BY MR. GAGE:

7 Q. Mr. Shaukat, without reading from the document, can you  
8 just tell us what this is?

9 A. It is the internal memo I sent to my team announcing the  
10 arrival of Stuart Breslow and Sunil Rayan to the team.

11 Q. And what does this — without reading the document, what  
12 were you informing your team of about Mr. Breslow?

13 MS. GREENE: Objection. Hearsay.

14 MR. GAGE: I'm not asking him to read from the  
15 document, your Honor. I'm asking him what he, as the author of  
16 the email, was intending to convey to his team.

17 THE COURT: Overruled.

18 A. I was intending to convey a couple of things in general.  
19 One of them was what is the scope of the role that Mr. Breslow  
20 and Mr. Rayan in this email had, and the second was what their  
21 background and qualifications were so that people would have an  
22 easier time getting to know them and onboard them.

23 MR. GAGE: Your Honor, I'd move the admission of  
24 Exhibit 40, D40.

25 MS. GREENE: Objection on hearsay.

NACHRow2

Shaukat - Cross

1 THE COURT: We're going to have to talk now. Can you  
2 bring a copy of the document, please.

3 (Continued on next page)

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

NACHRow2

Shaukat - Cross

1 (At sidebar)

2 THE COURT: OK. Ms. Greene, talk to me.

3 MS. GREENE: So this is Mr. Shaukat's email.

4 Mr. Shaukat is intending to introduce this email for the truth  
5 of Mr. Breslow's qualifications as he wrote them up. It can't  
6 be as to the impact on him. He's the author and recipient of  
7 this. It's clearly meant for the purpose of the truth, that  
8 this is his qualifications. And he said that he was writing it  
9 to transmit the qualifications.

10 THE COURT: Mr. Gage.

11 MR. GAGE: A couple of things, Judge. First of all,  
12 we've already fought over whether or not the jury can hear  
13 evidence of the qualifications of the plaintiff's comparators  
14 and Judge Schofield ruled on that a long time ago.

15 Second, your Honor just let the last exhibit in that  
16 says the same thing as this does about his qualifications.

17 And third, he's telling his team what Mr. Breslow's  
18 job was, what the scope of his job was and what he was going to  
19 be doing, which is precisely the core of the plaintiff's claim.  
20 I'm doing the same thing as Breslow, so I should be paid the  
21 same. And this shows to the contrary, and this is her lawsuit  
22 to a tee. So it's a contemporaneous statement of what the job  
23 is.

24 THE COURT: So is your position that this is not  
25 hearsay or that it comes in under an exception?

NACHRow2

Shaukat - Cross

1 MR. GAGE: It is not hearsay because it is him telling  
2 internally a team what the scope of the job was. That's not  
3 hearsay.

4 Second, to the extent that it's hearsay about  
5 Mr. Breslow's qualifications, Judge Schofield ruled on that a  
6 long time ago and said they can hear evidence of the  
7 qualifications of the plaintiff's comparators.

8 THE COURT: Is that the motions *in limine* order?

9 MR. GAGE: It had to do with the Level 8 — or  
10 Level 9s, specifically, that issue. Plaintiff tried to keep  
11 out the evidence of, for example, Mr. Eryurek's qualifications,  
12 etc., but they are also claiming Mr. Breslow was a comparator.  
13 So, to be more specific, Judge Schofield didn't specifically  
14 speak to Mr. Breslow, but she spoke to the issue of whether or  
15 not the jury could hear evidence about the comparators'  
16 qualifications, and plaintiff is saying he's a comparator.

17 MS. GREENE: And if I could just respond. Judge  
18 Schofield's ruling did not say anything with respect to  
19 hearsay, whether hearsay could be offered in support of that,  
20 and he just — Mr. Gage just said that it was being offered to  
21 show what the job was as it was described. That's the truth of  
22 the matter asserted. They're offering it that this is the job  
23 that he performed, and —

24 MR. GAGE: It's a contemporaneous statement that this  
25 witness crafted to describe the very thing they are contesting

NACHRow2

Shaukat - Cross

1 in the case. It's not hearsay.

2 MS. GREENE: It's an out-of-court statement being  
3 offered for the truth of the matter asserted. That's classic  
4 hearsay, and you've not — Mr. Gage has not articulated an  
5 exception to the hearsay rule.

6 MR. GAGE: Your Honor, they put in job descriptions  
7 that talk about what the scope of the plaintiff's job was.

8 THE COURT: I get that.

9 MR. GAGE: It's the same thing. What's the  
10 distinction?

11 MS. GREENE: The distinction is that the job  
12 description was a business record, having fought that fight.

13 MR. GAGE: No.

14 MS. GREENE: You didn't object to it on that grounds.

15 MR. GAGE: And you didn't put it in as a business  
16 record.

17 MS. GREENE: We didn't have to. There was no  
18 objection.

19 MR. GAGE: So it's not a business record. It was a  
20 written document that describes the job. This is no different.  
21 This is highly prejudicial, Judge, if they can put documents in  
22 describing what jobs are and we can't.

23 THE COURT: Let me see one of those documents.

24 MS. GREENE: Is there a job description for the role  
25 that Mr. Breslow came in with?

NACHRow2

Shaukat - Cross

1 MR. GAGE: No. No, frankly, there was no job  
2 description. This was the only thing. This was the only thing  
3 that existed. And we — if you'll remember, there were issues  
4 in discovery where we said we can't find it. There isn't a job  
5 description, and this was the only statement produced in  
6 discovery.

7 MS. GREENE: Relevance is not an exception to hearsay.

8 MR. GAGE: Your Honor, what's good for the goose is  
9 good for gander. When they put documents in that are exactly  
10 the same as this, descriptions of jobs —

11 THE COURT: All right. Let me see one of those  
12 documents, please.

13 MS. GREENE: So this is a document that —

14 MR. GAGE: Financial services vertical lead.

15 MS. GREENE: — that the defendant drafted. It's —  
16 there's evidence about that we didn't need to because there was  
17 no production that we could have offered about this was a  
18 Google's regular practice was to draft this sort of press  
19 release or the job qualifications —

20 MR. GAGE: None of that was established.

21 MS. GREENE: We didn't have to because there was no  
22 objection.

23 MR. GAGE: But there was none of that —

24 MS. GREENE: I'm sorry.

25 MR. GAGE: I'm sorry. They are both documents drafted



NACHRow2

Shaukat - Cross

1 by Google. Mr. Shaukat was a senior leader in the company. He  
2 drafted this document. He conceived of the role. This is  
3 highly prejudicial if this is kept out, Judge.

4 THE COURT: Listen, this one was offered by the  
5 plaintiff.

6 MR. GAGE: Yes.

7 THE COURT: Right? And it was a statement of a party  
8 opponent. This is offered by you, written by Mr. Shaukat.

9 MR. GAGE: It's offered for proof of the fact that on  
10 this date Mr. Shaukat said his job involves X, Y and Z.

11 THE COURT: All right.

12 MR. GAGE: The fact — so it's not hearsay.

13 THE COURT: Well, I will let you use it with that  
14 limiting instruction.

15 MR. GAGE: And is your Honor going to give the same  
16 limiting instruction for all these other documents that they  
17 introduced? Because if not, that's highly prejudicial.

18 MS. GREENE: They're not hearsay.

19 THE COURT: I don't see this as the same. This is  
20 subject to a hearsay exception.

21 MR. GAGE: That's not how it came in, Judge. It just  
22 came in, because it's a job description.

23 THE COURT: It depends on who uses it.

24 MS. GREENE: But also —

25 THE COURT: And who's offering it.

NACHRow2

Shaukat - Cross

1 MS. GREENE: Also, the defendant waived those  
2 objections. He could have objected on the basis of hearsay.  
3 He chose not to.

4 MR. GAGE: This is highly prejudicial.

5 MS. GREENE: He can't now argue that — we could have  
6 established that it wasn't hearsay at the time. The fact that  
7 he didn't raise that objection or maintain that objection, it's  
8 waived.

9 MR. GAGE: This is highly prejudice to say that the  
10 defendant's evidence on the same topic is worth less than the  
11 plaintiff's.

12 THE COURT: Have you used this yet or planning to use  
13 it?

14 MR. GAGE: She has used it.

15 MS. GREENE: We have not.

16 MR. GAGE: You have uses used it. You asked —

17 MS. GREENE: I'm sorry. This has been used. Again,  
18 there was no objection —

19 THE COURT: Yes.

20 MS. GREENE: — against it.

21 Your Honor, to the extent that you suggested that you  
22 would allow it in with a limiting instruction, we're  
23 comfortable with that.

24 THE COURT: I will let it in with a limiting  
25 instruction.

NACHRow2

Shaukat - Cross

1 MR. GAGE: I would just note our exception. It's  
2 highly prejudicial, your Honor, to say that our evidence on the  
3 exact same topic is worth less than the plaintiff's. I think  
4 if you're going to give a limiting instruction, you should give  
5 it as here are the exhibit numbers. All of these documents  
6 were offered for a limited purpose, for the effect on the  
7 listener, and the listener being his entire team. The  
8 listeners being his team.

9 THE COURT: So this document is different. This is  
10 offered by the plaintiff and it's subject to a hearsay  
11 exception, number one.

12 Number two, you yourself have said we do not object to  
13 this document, so the objection to this document is waived.

14 This document, I believe, is hearsay. You may use it  
15 with a limiting instruction. So let's talk now about what the  
16 limiting instruction is going to be.

17 MR. GAGE: I would suggest a similar instruction to  
18 the one that we proposed.

19 THE COURT: On this document?

20 MR. GAGE: Well, we can slop a few words —

21 THE COURT: Yes.

22 MR. GAGE: — because that was — you know what I  
23 mean, your Honor?

24 THE COURT: Yes.

25 MR. GAGE: That was speaking about, I think, what

NACHRow2

Shaukat - Cross

1 people said or —

2 THE COURT: But tell me what you want to use it for,  
3 so that part.

4 MR. GAGE: The purpose of introducing this document is  
5 to show the jury what Mr. Shaukat told his team would be  
6 Mr. Breslow's job responsibilities and duties, but it's not  
7 offered for the truth of the matter asserted therein.

8 THE COURT: All right.

9 MR. GAGE: Does that work, Cara?

10 MS. GREENE: Yes.

11 THE COURT: OK. That's what we're going to do. I  
12 will hand this back to you.

13 MS. GREENE: I believe this is your copy.

14 THE COURT: May I take this?

15 MR. GAGE: You can keep it. We can give you more  
16 copies if you want. We have plenty.

17 THE COURT: OK. Thank you.

18 (Continued on next page)

NACHRow2

Shaukat - Cross

1 (In open court; jurors present)

2 THE COURT: I need a moment because I need to give you  
3 an instruction. I'm preparing it now.

4 In certain instances evidence may be admitted only for  
5 a limited purpose. You are about to see a document marked  
6 Defendant's 40. This evidence is admitted for a limited  
7 purpose. It is admitted only for the purpose of showing you  
8 what Mr. Shaukat told his team would be Mr. Breslow's job  
9 responsibilities and duties. You may not consider this  
10 document for the truth of the matters asserted therein. You  
11 may give this evidence such weight as you feel it deserves, but  
12 only for the limited purpose for which it has been offered.  
13 You may not use the evidence for any other purpose.

14 All right. Mr. Gage.

15 MR. GAGE: We can show the jury?

16 THE COURT: Yes.

17 MR. GAGE: If you can just publish that to the jury.

18 We'll be quick with this, your Honor.

19 BY MR. GAGE:

20 Q. Mr. Shaukat, did you write this email and send it?

21 A. I sent it. I would have had an internal communication team  
22 to help me draft it.

23 Q. In here it describes that among the things that Mr. Breslow  
24 was supposed to be doing was developing and maintaining the  
25 business requirements for regulatory and compliance across GCP

NACHRow2

Shaukat - Cross

1 and GSuite. What does that refer to?

2 A. GCP and GSuite were the two primary products we were  
3 offering inside of Google Cloud. And maintaining the business  
4 requirements means providing business input into the product  
5 roadmap, so, essentially, what are the requirements that the  
6 product has to fulfill.

7 Q. Also indicates he would be responsible for building a  
8 global team to work with customers and partners across  
9 industries to ensure that Google Cloud meets their compliance  
10 and regulatory needs.

11 What is that referring to?

12 A. That there's a number of things that a client has to do to  
13 make sure that they can use the cloud in a compliant way. So  
14 Stuart and the team he was to build was to help them do that.  
15 And then also to take their requirements and make sure that  
16 areas where we could build a problem so that it was compliant;  
17 for example, there's HIPAA in health care and there's special  
18 requirements for a database. So Stuart's team's responsible  
19 for gathering those regulatory requirements and feeding it to  
20 our product team so that they could build a compliant database.

21 Q. OK. Thank you.

22 Jean, you can take this down.

23 Was this a director or a vice president position?

24 A. Stuart came in as a director.

25 Q. And was giving public speeches part of this job?

NACHRow2

Shaukat - Cross

1 A. It was not.

2 Q. You told the jury a little while ago what anti-money  
3 laundering laws refer to. Did Mr. Breslow actually work on any  
4 projects relating to anti-money laundering?

5 A. While he was at Google?

6 Q. Yes.

7 A. Yes. As I mentioned, we had a number of customers who were  
8 interested in anti-money laundering, and our largest financial  
9 services prospect was a bank called HSBC. It's a global bank.  
10 And they in particular had kicked off a project on anti-money  
11 laundering that Stuart took the lead on for us.

12 Q. And when you say he took the lead on it, what was his role?  
13 What was he expected to do on that project?

14 A. He was expected to do a number of different things. One of  
15 them was meet with the senior staff over at HSBC and make sure  
16 that we understood their requirements. So in this case it  
17 would be their head of financial crimes, I guess financial  
18 crimes prevention, and their head of compliance and regulatory.  
19 He was to make sure that we understood their requirements and  
20 they understood the capabilities of the cloud. And then he had  
21 a number of teams across Google that he had to marshal to help  
22 specify and start building the product, including our AI  
23 engineering team, artificial intelligence engineering team, our  
24 product management team and others.

25 Q. When you refer to teams he had to marshal, are you

NACHRow2

Shaukat - Cross

1 referring to people who reported directly to him?

2 A. No, there were very few people who reported directly to  
3 Stuart at this time.

4 Q. So what do you mean by he had to marshal them?

5 A. So we had some product and engineering people in my team  
6 who did not report to Stuart but they were in my team, but the  
7 prime — but the majority, I would say, of the resources,  
8 particularly the product and engineering resources, that we  
9 needed to build this product sat in other departments inside of  
10 Google. So he had to go and both convince them this was a  
11 priority as well as then educate them on what the needs of the  
12 customer were.

13 Q. One last question on this AML matter.

14 Ms. Rowe testified the other day about she was aware  
15 that he was working on this project. She characterized it as a  
16 small project. Would you agree with that characterization?

17 A. I would not.

18 Q. Why not?

19 A. It was a project — so, as I mentioned, HSBC ended up  
20 being, I think still is to this day, the largest financial  
21 services client inside of Google Cloud. Certainly at the time  
22 it was the largest deal that we had done. It was a  
23 billion-dollar-plus deal. Their reason for selecting us  
24 hinged, if you will, on us being able to do this anti-money  
25 laundering project. It was a core differentiator for us versus



NACHRow2

Shaukat - Cross

1 others.

2 Q. Now I want to pivot to something called OCTO. The jury's  
3 heard a little about OCTO, but in your role at the time, were  
4 you aware what OCTO was?

5 A. I was, yes.

6 Q. Who was the chief technology officer at Google Cloud at the  
7 time?

8 A. Brian Stevens.

9 Q. Did you know Brian Stevens?

10 A. I did.

11 Q. Did you and Brian Stevens both report to Diane Greene?

12 A. We did, yes.

13 Q. Now, the jury has heard that there were four technical  
14 detectors in OCTO — Evren Eryurek, Jeff Kember, Ben Wilson,  
15 and Ms. Rowe — who moved into your organization. Is that what  
16 happened?

17 A. It is, yes.

18 Q. What were the four of them expected to do in your  
19 organization when they moved over?

20 A. So part of the rationale for having them move over was we  
21 were building these industry teams, and we wanted a unified  
22 message and value proposition for our customers. So they were  
23 expected to come and be part of the team and to help develop  
24 and promote, if you will, the strategy. So that was  
25 number one.

NACHRow2

Shaukat - Cross

1           One of the main areas of conflict that we had had  
2 previously was that OCTO, particularly the industry-specific,  
3 the four individuals you were talking about, had spent more of  
4 their time, I'll characterize it, as going from customer to  
5 customer as opposed to deep engagement. So it was broad  
6 shallow work as opposed to deep engagement with specific  
7 priority clients. And one of the expectations I set for each  
8 of the team as they moved over was that they would adopt  
9 specific clients that we would agree upon, and they would spend  
10 their time really getting to know and influencing and working  
11 with those particular clients.

12 Q. Did you expect them to spend a lot of their time giving  
13 speeches?

14 A. No, it was explicitly what we were trying to stop from  
15 happening.

16 Q. At the time they moved over, did you have any plans to  
17 consider any of the four of them for the vertical lead roles?

18 A. I did not.

19 Q. Why was that?

20 A. In general, the — as I mentioned, the office of the CTO,  
21 as it implies, were deeply technical people who could, I'm  
22 sure, handle the technical part of the job, but these were  
23 business unit head roles where you needed to have the business  
24 understanding of business processes inside of these different  
25 industries, as well as the C-level relationships that,

NACHRow2

Shaukat - Cross

1 generally speaking, the people in OCTO did not — did not walk  
2 in with.

3 Q. Did Ben Wilson meet with you to talk about the vertical  
4 lead role?

5 A. He did when he joined my team, yes.

6 Q. Can you describe to us what, if anything, he came to you  
7 with in that meeting.

8 A. So Ben came asking what my plans were for the industry.

9 Ben was focused on a combination of manufacturing and energy at  
10 the time. He walked in with a — I was quite surprised,  
11 actually — with a fully fleshed out plan for what he would  
12 prioritize if he was to be in charge of the industry, what he  
13 thought — his advice to me, given we were starting this  
14 industry, on what we should prioritize, what partners we should  
15 work with, what solutions we should develop, that sort of  
16 thing. It was a fairly detailed plan that he walked in with.

17 Q. Did you appreciate it?

18 A. I did very much.

19 Q. Was it good?

20 A. It was good.

21 Q. Did you give him the job?

22 A. I did not.

23 Q. Why not?

24 A. Because, and as I explained this to Ben as well, he had a  
25 very good understanding of the technical requirements in

NACHRow2

Shaukat - Cross

1 energy, for example, but he did not have a great level of depth  
2 or the executive relationships that we were looking for, level  
3 of depth on the business side or the executive relationships we  
4 were looking for.

5 Q. Who did you hire for that vertical?

6 A. We ended up splitting that vertical into two. We hired  
7 Darryl Willis, who had been — for energy. And Darryl had been  
8 the president of several markets for British Petroleum, BP. He  
9 had also done some — it's called seismic exploration work, so  
10 the use of data and analytics to find new oil fields and the  
11 like. So we hired Darryl Willis, and we subsequently hired  
12 Dominik Wee for manufacturing.

13 Q. Mr. Kember also came over to your organization from OCTO,  
14 is that right?

15 A. He did.

16 Q. Did he meet with you to talk about that vertical?

17 A. He did, yes.

18 Q. And can you tell us what, if anything, he presented to you  
19 in that meeting.

20 A. There were a number of meetings with Jeff. He walked in,  
21 very similar to Ben, with here's the solution areas that he's  
22 hearing from customers, here's what he thinks we should focus  
23 on. And a little bit different from Ben, he walked in with, I  
24 think it was, LinkedIn profiles of people he would consider  
25 hiring for different roles on the team as well.

NACHRow2

Shaukat - Cross

1 Q. Did you give him the job for the vertical he was talking  
2 about?

3 A. I did not.

4 Q. Who got that job?

5 A. For meeting and entertainment, it was John Honeycutt.

6 Q. What was Mr. Honeycutt doing, as you understand it, before  
7 you gave him that vertical lead role?

8 A. John Honeycutt was chief technology officer of Discovery  
9 Networks. So — well, Discovery Network's a large TV network  
10 and channel, Shark Week and that sort of thing. And he was a  
11 very well-known figure in the industry. Had been doing this  
12 sort of work for a long time.

13 Q. One last question on this topic, Mr. Shaukat.

14 Did you treat your meeting with Ms. Rowe any  
15 differently than you treated the meetings with Ben or Jeff?

16 A. No, I did not.

17 Q. And did you give Ms. Rowe the exact same opportunity to  
18 present her ideas, her thoughts, her credentials as you gave to  
19 Ben and Jeff?

20 A. I did. All the meetings were set up as get-to-know-you  
21 meetings, and Jeff and Ben took the initiative differently than  
22 Ms. Rowe did.

23 MR. GAGE: I'd like to move on to Exhibit P-31. Your  
24 Honor, this is plaintiff's exhibit, so I don't think there's  
25 any issue with this. If we could just go to the second page.

NACHRow2

Shaukat - Cross

1 Q. Is this a description of the head of financial services  
2 role?

3 A. It is, yes.

4 Q. It indicates that "The financial services vertical lead  
5 will be the executive responsible for creating and executing  
6 Google Cloud's strategy in the financial services industry."

7 Didn't you already have a strategy for financial  
8 services at the time, Mr. Shaukat?

9 A. No. We had some specific initiatives, like the financial  
10 crimes initiative that I mentioned, but we didn't have a  
11 comprehensive strategy.

12 Q. Who did you expect to develop that?

13 A. The vertical lead that we were hiring.

14 MR. GAGE: We can take that down.

15 Q. Can you describe — well, in the beginning of 2018, in  
16 March of 2018, were you already considering candidates?

17 A. March of 2018? I believe so, yes.

18 MR. GAGE: I'd like to show the witness an exhibit,  
19 D55, but just show it to the witness.

20 THE COURT: Is there an objection on this document?

21 MS. GREENE: Yes.

22 MR. GAGE: Can I just ask a couple of questions,  
23 foundational questions, Judge?

24 THE COURT: Yes, you may.

25 BY MR. GAGE:

NACHRow2

Shaukat - Cross

1 Q. Mr. Shaukat, does this document reflect information that  
2 was shared with you in March of 2018 that related to decisions  
3 you were making about the various vertical lead positions,  
4 including the financial services vertical lead?

5 A. It does.

6 MR. GAGE: Your Honor, I would move the admission of  
7 this document.

8 MS. GREENE: Your Honor, we believe that this should  
9 be subject to the same instruction.

10 MR. GAGE: I disagree, your Honor. I hate to provoke  
11 a sidebar, but it is a very different document.

12 THE COURT: All right. We'll have to talk over here.

13 (Continued on next page)  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

NACHRow2

Shaukat - Cross

1 (At sidebar)

2 THE COURT: All right. Now, this appears to be a  
3 document that's being offered by the defendant and prepared by  
4 the defendant. So tell me how you think this is different.

5 MR. GAGE: Well, it's different. It's a document that  
6 shows the various people that were under consideration for  
7 these various jobs.

8 THE COURT: OK. Ms. Greene.

9 MS. GREENE: That sounds like the truth of the matter  
10 asserted. These various people that were — and like I said,  
11 if it's a limiting instruction for the —

12 MR. GAGE: I'm sorry for interrupting. I'll solve  
13 this, Judge. Can I just use it to refresh his recollection?

14 THE COURT: Does he say he doesn't remember?

15 MR. GAGE: No, no, he said exactly that it was a  
16 document that reflects the people that he was considering for  
17 the various vertical lead positions, including the financial  
18 services vertical lead. I'll just use it to refresh his  
19 recollection.

20 THE COURT: What's your position on that?

21 MS. GREENE: As long as he's not reading from the  
22 document.

23 MR. GAGE: Like you did? I mean, I can use a ham  
24 sandwich to refresh his recollection.

25 MS. GREENE: Which document — we'll come back to that



NACHRow2

Shaukat - Cross

1 later.

2 THE COURT: All right. Yes.

3 MR. GAGE: I just want to move it along, Judge.

4 THE COURT: Yes, you may do that.

5 (Continued on next page)

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

NACHRow2

Shaukat - Cross

1 (In open court; jurors present)

2 MR. GAGE: We'll just move this along, Mr. Shaukat.

3 May I continue, Judge?

4 THE COURT: Yes, you may.

5 BY MR. GAGE:

6 Q. Mr. Shaukat, were you considering candidates for the  
7 financial services vertical lead job in March of 2018?

8 A. I was, yes.

9 Q. I'd just like, just for the witness, flip to the second  
10 page, and just ask the witness a simple question.

11 Does this refresh your recollection, yes or no, as to  
12 the consideration — the candidates that you were considering  
13 at the time?

14 A. Yes.

15 Q. Were you considering someone named Ranjana Clark at the  
16 time?

17 A. I was.

18 Q. Were you familiar with Ms. Clark's background and  
19 experience?

20 A. Yes. She had been a client of mine at McKinsey a decade  
21 before.

22 Q. What was your understanding at the time of Ms. Clark's  
23 background?

24 A. She was an extremely extraordinarily qualified or  
25 experienced candidate in the financial services world. She was

NACHRow2

Shaukat - Cross

1 the head of what's called transaction banking at a bank called  
2 MUFG, which is one of the largest banks in the world. It's  
3 Mitsubishi bank in Japan. She was the president of the Bay  
4 Area for them. As well previously, she had been in senior  
5 roles reporting to the CEO of Western Union, PayPal, Wachovia  
6 Bank. She had been on the list, I think this year, of the 30  
7 or 50 most powerful women in banking as well.

8 Q. Were you at the time also looking at someone named Yolande  
9 Piazza?

10 A. Yes.

11 Q. And did you have an understanding at the time of what  
12 Ms. Piazza's background was?

13 A. I didn't know her personally at the time, but my  
14 understanding had been that she was in charge of what's called  
15 fintech, so financial innovation, essentially, at Citigroup,  
16 including blockchain and use of cloud.

17 MR. GAGE: You can take this document down.

18 Q. Just a couple of questions about something that Ms. Greene  
19 asked you about yesterday.

20 Do you remember being asked a number of questions  
21 about meetings and email lists, and so on?

22 A. Yes.

23 Q. Did you have regular meetings with everyone on your team?

24 A. Individually, no.

25 Q. And did you treat Ms. Rowe any differently than anyone on

NACHRow2

Shaukat - Cross

1 your team?

2 A. No, exactly the same.

3 Q. I'd like to move to the point at which — well, did  
4 Mr. Stevens ever reach out to you and ask you to consider  
5 Ms. Rowe for the financial services vertical lead?

6 A. He did. I believe he requested it as a personal favor.

7 THE COURT: Excuse me, Mr. Gage, I just want to get a  
8 sense of your time. It's two minutes to 11:00, and I need to  
9 give the jury a break and the court reporter. What are you —

10 MR. GAGE: Can I just use those two minutes and  
11 then —

12 THE COURT: That was my question.

13 MR. GAGE: If I use my 90 seconds.

14 Q. And did you do him that personal favor?

15 A. I did, yes.

16 Q. Why?

17 A. I deeply respected Brian Stevens. He was a peer of mine at  
18 Google. He is a generally very thoughtful person who I work  
19 very closely with, and he thought it was worth asking for that  
20 personal favor. We didn't do that very often, so I thought it  
21 was worth meeting his request, yes.

22 Q. Were there any other reasons why you considered Ms. Rowe?

23 A. No. As mentioned, I gave her the same opportunities as  
24 others who came in, but she got a deeper opportunity because of  
25 Brian's request.

NACHRow2

Shaukat - Cross

1 MR. GAGE: Your Honor, can we take the break now?

2 THE COURT: Yes. How much more do you have with  
3 Mr. Shaukat, do you think?

4 MR. GAGE: Can I just take a few minutes to look at my  
5 notes and then tell your Honor?

6 THE COURT: Yes. Yes, you can.

7 MR. GAGE: While the jury's out on the break, or do  
8 you want me to do that right now?

9 THE COURT: Well, actually, it doesn't really matter  
10 because I want to give them a break and the court reporter. So  
11 we'll take our midmorning break now, members of the jury, and  
12 we'll come back in 15 minutes. Please do not discuss the case  
13 and please keep an open mind. Thank you.

14 (Jury excused)

15 (Continued on next page)

16

17

18

19

20

21

22

23

24

25

NACHRow2

Shaukat - Cross

1 (Jury not present)

2 THE COURT: Please sit down.

3 Do people want to — I have more questions about  
4 pending issues. Do you want to deal with those now? I don't  
5 want to eat up your whole break if you need a break, but I'm  
6 trying to keep things moving.

7 What else needs to be decided today?

8 MS. GREENE: Your Honor, there's one issue that came  
9 up, and it relates to Mr. Shaukat's testimony.

10 THE COURT: Wait a second. I'm sorry. I forgot that  
11 he was here.

12 I'm sorry, Mr. Shaukat. I think you need to —

13 THE WITNESS: Sorry. I don't know what to do.

14 THE COURT: I'm sorry.

15 MR. GAGE: Don't take it personally.

16 (Witness temporarily excused)

17 THE COURT: OK.

18 MR. GAGE: Just a comfort break, your Honor, if that's  
19 OK.

20 THE COURT: Sure, sure.

21 MR. GAGE: I'll stick around.

22 MS. GREENE: Your Honor, Mr. Gage introduced testimony  
23 with respect to Mr. Breslow's cultural fit, his — in the  
24 hiring packet, his work on behalf of a lesbian woman, if you  
25 recall that testimony. He's now opened the door with respect

NACHRow2

Shaukat - Cross

1 to Mr. Breslow's cultural fit and Googliness, as Google refers  
2 to it. There was a motion *in limine* related to a complaint  
3 that was directed against Mr. Breslow relating to his cultural  
4 fit and of which Mr. Shaukat was aware, and we believe that the  
5 door has now been opened, and we should be able to introduce  
6 that testimony.

7 THE COURT: Mr. Gage.

8 MR. GAGE: It won't shock you, Judge, I disagree.  
9 Mr. Breslow — the purpose for which they want to offer that  
10 testimony is to suggest that Mr. Breslow is someone who might  
11 discriminate. The specific evidence they're talking about that  
12 was already excluded by Judge Schofield is — I believe it's an  
13 email exchange. I might be a little off on that. But it was  
14 his assistant who expressed, I believe to Ms. Rowe, some  
15 frustration with Mr. Breslow, and they wanted to use that to  
16 suggest that Mr. Breslow would somehow discriminate.

17 He's not a decision-maker in this case, and the  
18 information that I brought out through Mr. Shaukat related to  
19 Mr. Shaukat's decision-making about why he hired him. And one  
20 of the reasons he hired him is because he values the fact that  
21 he understood Mr. Breslow is someone who mentored people and  
22 tried to develop people. And there will be testimony in this  
23 case from other witnesses that they tried to assist Ms. Rowe,  
24 including that Mr. Breslow had a conversation with Ms. Rowe.

25 So what they're offering it to show is precisely the

NACHRow2

Shaukat - Cross

1 reasons why Judge Schofield said it should be inadmissible, and  
2 that has nothing to do with Mr. Shaukat's decision-making  
3 because Mr. Shaukat was not aware of and he had no reason to be  
4 aware of the evidence they're talking about because it didn't  
5 exist for several months, maybe even a year plus.

6 THE COURT: All right. I need to see Judge  
7 Schofield's ruling on that motion *in limine*. And I had it  
8 right there, and now I don't know where it is. So if somebody  
9 — yes, please.

10 MS. GREENE: And, your Honor, may I address something  
11 in particular?

12 THE COURT: Yes.

13 MS. GREENE: I believe Mr. Gage has represented that  
14 this also goes and will be evidence related to Mr. Shaukat's  
15 selection for the interim role — I'm sorry, Mr. Breslow for  
16 the interim role. Mr. Shaukat was aware of these concerns  
17 related to Mr. Breslow before making the decision to put  
18 Mr. Breslow in that interim role. So to the extent they're  
19 talking about, you know, positive information that he had  
20 available to him about Mr. Shaukat's treatment of a woman that  
21 he'd worked with in the past, we should also be able to bring  
22 out that Mr. Shaukat was aware of a complaint against  
23 Mr. Breslow related to his treatment of a woman with whom he  
24 was directly working with under Mr. Shaukat prior to the time  
25 he selected Mr. Shaukat for the financial services vertical



NACHRow2

Shaukat - Cross

1 lead role.

2 And, again, your Honor, it was the subject of a motion  
3 *in limine*, but they have now opened the door, and we should be  
4 able to present evidence that contradicts that testimony that  
5 they've solicited.

6 (Continued on next page)

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

NACVROW3

Shaukat - Cross

1 THE COURT: All right.

2 Which is the motion *in limine* in this order?

3 MS. TOMEZSKO: I believe the first one, your Honor.

4 MR. CHIARELLO: Your Honor, I think it's the third  
5 part of the second motion.

6 THE COURT: Okay. So why don't we take a brief break  
7 and come back here a couple minutes ahead of 11:15, and I'll  
8 give you an answer.

9 (Recess)

10 THE COURT: Please be seated.

11 All right. I agree that the door has been opened to  
12 this testimony. However, I am going to limit it. I went back  
13 and looked at the briefs underlying the motion *in limine*  
14 ruling. And plaintiff did not seek to offer this evidence for  
15 the truth of the matters asserted, that Mr. Breslow took these  
16 actions, but as evidence probative of Mr. Shaukat's state of  
17 mind when considering Mr. Breslow for the FSVL role.

18 So I will instruct the jury accordingly.

19 Yes, Mr. Gage.

20 MR. GAGE: Shall I have Mr. Shaukat take the stand?

21 THE COURT: No, because I need a moment to --

22 MR. GAGE: I'm sorry.

23 THE COURT: I need a moment to put together the  
24 instruction.

25 MR. GAGE: I'm sorry.

NACVROW3

Shaukat - Cross

1 THE COURT: No, no, no.

2 MR. GAGE: Just trying to save time.

3 THE COURT: I understand.

4 MR. GAGE: And for what it's worth, it seems to me  
5 from the one you just gave, swap out some objects.

6 THE COURT: Yes, I don't disagree. It's just that the  
7 one I just gave is on like scraps of paper, and so I just need  
8 to put that together.

9 MR. GAGE: We can sympathize with piles of Post-It  
10 notes, Judge. Also, I don't expect you to need it anytime soon  
11 because I need to finish my examination. To answer your  
12 question earlier, I expect 25 minutes, I think.

13 THE COURT: The problem is if I try to do that while  
14 you're --

15 MR. GAGE: Okay.

16 THE COURT: I've got to listen. So I appreciate the  
17 suggestion. Is Mr. Shaukat the only one who will be questioned  
18 about this?

19 MS. GREENE: The document itself? I mean this subject  
20 area?

21 THE COURT: This subject area.

22 MS. GREENE: Yes.

23 THE COURT: Okay. We don't have a document, right?  
24 This is only about testimony? What is the document?

25 MS. GREENE: P-39. I believe it was removed though

NACVROW3

Shaukat - Cross

1 from what was submitted to you. We have an electronic version,  
2 but no means of printing it off. We could though put it on  
3 your Honor's computer.

4 THE COURT: It's not in the binder. Can you put it up  
5 there now?

6 MS. GREENE: Yes.

7 THE COURT: So what do you want to do about the  
8 document?

9 MS. GREENE: Here it is, your Honor. I'd like to ask  
10 him if it was a document that he received, and note that he's a  
11 recipient on it. Go down to the concerns that were raised  
12 about Mr. Breslow, including --

13 THE COURT: Where?

14 MS. GREENE: So beginning on the third page of the  
15 PDF.

16 THE COURT: Okay. 8/13 meeting, is that --

17 MS. GREENE: Correct. That's the only portion of this  
18 document with respect to the concerns that Morgan raised that I  
19 intend to call out.

20 THE COURT: What else is in -- since I haven't seen  
21 this before, what else is in this document?

22 MS. GREENE: Well, the first two pages or the last two  
23 pages, I should say, are the concerns that Morgan, who at the  
24 time was Ms. Rowe's and Mr. Breslow's assistant, raised with  
25 respect to Mr. Breslow.

NACVROW3

Shaukat - Cross

1           The next portion of the document relates to steps that  
2 they were taking to address Mr. Breslow's behavior, including  
3 agenda that he would participate, company culture, leadership  
4 trainings.

5           And then moving up to the first page, the email from  
6 Ms. Rowe making sure that Tariq's in the loop.

7           THE COURT: All right.

8           Mr. Gage, what is your position on the document?

9           MR. GAGE: It's just filled with all sorts of hearsay  
10 about things that may or may not have happened. And I think if  
11 the jury sees anything, it should only be the email and not  
12 that attachment. It's not being offered for the truth of the  
13 matter.

14           And I would also ask, as your Honor is crafting the  
15 charge, that when you say to the jury this is not offered for  
16 the truth of the matter, in particular we're talking about a  
17 complaint. The fact that it refers to a concern does not mean  
18 there was a basis for that concern. Because this is not  
19 offered for the truth. Counsel has said that. And so I would  
20 ask that in this context, because that's one of the reasons why  
21 Judge Schofield kept it out in the first place is because it  
22 can be unfairly prejudicial. I don't think it is, but I know  
23 your Honor has ruled.

24           THE COURT: Okay. So Ms. Greene, so the document  
25 seems to go into other areas that you mentioned steps that are

NACVROW3

Shaukat - Cross

1 being taken to address the complaint, so I do not think they  
2 will come in. They will not come in.

3 Let's see. Take me back to page 3.

4 MS. GREENE: This page broadly outlines the concerns  
5 that Morgan was raising with respect to Mr. Breslow's behavior  
6 and gives several different examples. To the extent I would  
7 call out one, it would be with respect to the one about  
8 Ms. Rowe and Mr. Breslow's comments related to Morgan about her  
9 support for Ms. Rowe. That overlaps with the gender complaints  
10 that Ms. Rowe was asserting. But it's an example of the type  
11 of thing. And it's a question for Mr. Shaukat, having seen  
12 this document, did it have any effect on your view of  
13 Mr. Breslow, his cultural fit and his qualifications for the  
14 financial services vertical lead role.

15 THE COURT: Point me on page 3 to the part that you  
16 were just reading from. Is it back to the 8/13 meeting?

17 MS. GREENE: Correct. That would be the paragraph.

18 THE COURT: I tell Stuart. Who's "I"?

19 MS. GREENE: Morgan.

20 MR. GAGE: We don't know, Judge. That's part of the  
21 problem with this document. This document has not been  
22 authenticated, particularly this last part. We don't know who  
23 wrote it. We don't know who the speaker is. We don't even  
24 know who all these pronouns refer to. It's highly and unfairly  
25 prejudicial.

NACVROW3

Shaukat - Cross

1 MS. GREENE: I believe that they are Morgan's notes.  
2 The point is not who wrote these notes, it's whoever wrote  
3 these notes, Mr. Shaukat received them. It is part of the  
4 email string that he received.

5 THE COURT: Okay. Well, this document --

6 MR. GAGE: We don't know that.

7 THE COURT: This document is unauthenticated, and I do  
8 think that it is unfairly prejudicial. So the witness can be  
9 questioned -- the witness can be questioned about the complaint  
10 with the appropriate instruction to the jury.

11 MS. GREENE: Can I, your Honor, question him about the  
12 complaint and the first email, which is a correspondence  
13 between him and Mr. Shaukat and Ms. Rowe, making sure that he's  
14 in the loop?

15 MR. GAGE: Sorry, what was the question? And I'll  
16 hear the answer. But Cara, what was the question?

17 MS. GREENE: Whether I may question him as to the  
18 email, that first email, where he's a recipient.

19 MR. GAGE: The top email.

20 MS. GREENE: Correct.

21 THE COURT: What about showing him the email, but only  
22 him, to refresh his recollection and then he can testify.

23 MR. GAGE: I have no problem with her showing him just  
24 the email to see if it refreshes his recollection and asking  
25 him questions about it. But I would ask, if you would, your

NACVROW3

Shaukat - Cross

1 Honor, to give a very clear instruction to counsel that you  
2 can't read from it. Because last time when she refreshed  
3 recollection, she read from the document.

4 THE COURT: All right. So you're okay with her  
5 reading -- no, not reading. We're going to -- we would show  
6 this document -- I guess it's going to have to be redacted.

7 MR. GAGE: Just that first -- from the top, from Ulku  
8 Rowe down through "Let me know what you think." I have no  
9 problem with them showing him that and asking him if it  
10 refreshes his recollection about anything.

11 MS. GREENE: Well, your Honor, it's not sufficient  
12 only to refresh his recollection. If he says he doesn't  
13 recollect, we should be able to show the jury that, in fact, he  
14 did receive this email, even if we're only showing him the  
15 email and not the rest of the document.

16 MR. GAGE: That gets back to the authentication  
17 problem.

18 THE COURT: Yes, we do have an authentication problem.

19 MS. GREENE: I don't understand how we have an  
20 authentication problem when -- first of all, can we look and  
21 see whether an authenticity objection was raised? But this is  
22 an email that Mr. Shaukat received.

23 MR. GAGE: We don't know that.

24 MS. GREENE: Produced by Google from their Google  
25 systems. So I'm confused why there's any question as to the



NACVROW3

Shaukat - Cross

1 authenticity of that first email, which, again, was produced by  
2 Google from their systems, where Ms. Rowe is the sender,  
3 Mr. Shaukat is the recipient on their Google email addresses.

4 MR. GAGE: Your Honor, this has not been  
5 authenticated. No witness has testified. Again, and to the  
6 extent that we did or didn't raise authentication, Judge  
7 Schofield ruled this out a long time ago, so we didn't think we  
8 had to argue about it.

9 Again, I have no problem with them showing that top  
10 email to Mr. Shaukat and ask him if it refreshes his  
11 recollection; but otherwise we're going down a rabbit hole of  
12 something that's wholly irrelevant to the case and potentially  
13 unfairly prejudicial.

14 THE COURT: All right. So go back to page 3, please.

15 MS. GREENE: Yes.

16 MR. GAGE: I would note, your Honor, I'm not even sure  
17 that it looks like Morgan is the author of this document,  
18 because at the top it says Morgan set up a one-on-one, and then  
19 later it uses pronouns in here. So it's really unclear to me  
20 who wrote this thing.

21 THE COURT: The document is not coming in. You may  
22 question Mr. Shaukat about the complaint. Both sides are okay  
23 with showing it to him without publishing it to the jury; is  
24 that right?

25 MS. GREENE: I'm fine.

NACVROW3

Shaukat - Cross

1 MR. GAGE: I'm fine with them showing the email at the  
2 top and asking him if it refreshes his recollection about  
3 anything. And then if it -- you know, he can answer questions  
4 about it, but I don't think the jury should see the document.

5 THE COURT: I agree with that.

6 All right. I just need another minute to work on the  
7 instruction.

8 MR. GAGE: Your Honor, may I take a quick comfort  
9 break?

10 THE COURT: Yes, you may.

11 MS. GREENE: May I, as well?

12 MR. CHIARELLO: Judge, can we clarify something about  
13 the order you just gave, which is that if we're showing the top  
14 portion to Mr. Shaukat, would you like plaintiff to redact the  
15 bottom, the rest of that email? Or if it's just showing it to  
16 Mr. Shaukat and not the jury, do we not need to do that?

17 THE COURT: I believe -- I wish there were a way that  
18 I could flip through this, but I don't think there is. Go to  
19 page 2, please. Okay. And then the next page. All right.  
20 It's just three pages?

21 MR. CHIARELLO: I believe it's five pages, your Honor.

22 THE COURT: Okay. Mr. Gage, tell me again your  
23 position on -- we're only -- you're only showing Mr. Shaukat  
24 that this document is not going to be published to the jury.  
25 But your position is that he should only be shown the top

NACVROW3

Shaukat - Cross

1 email?

2 MR. GAGE: That was my suggestion, yes.

3 THE COURT: Okay. Why can't -- what is your argument  
4 as to why Mr. Shaukat can't flip through the whole document?

5 MR. GAGE: I thought your Honor had already ruled that  
6 the attachment was not coming in and couldn't be used, and that  
7 was the only reason I was suggesting that he see the email.  
8 But if your Honor is saying he could be shown the whole thing,  
9 show him the whole thing. I just don't want the jury to see  
10 it.

11 THE COURT: No, of course. I got that part of your  
12 argument. I can't tell there is an attachment here.

13 MR. GAGE: It's unclear.

14 THE COURT: Yes, just because -- well, because also I  
15 can't touch it.

16 MR. GAGE: It's not an attachment.

17 MS. TOMEZSKO: In fact, the Bates number is different,  
18 the handle, which indicates that it is actually a separate  
19 document that they have compiled into this document that you're  
20 seeing before you.

21 MR. GAGE: Oh. So that's a reason why the attachment  
22 should not be shown to the witness because I didn't realize  
23 that.

24 THE COURT: I don't know if I can see -- I have  
25 something here blocking my view of the Bates number.

NACVROW3

Shaukat - Cross

1 MR. GAGE: The sequence of the Bates numbers, let's  
2 just go through it, if Mr. Yang could.

3 MS. TOMEZSKO: It's not the sequence.

4 MS. GREENE: Your Honor, there's a linked document in  
5 this email. We asked Google to present the linked document,  
6 and this was the document that Google sent. That's why they  
7 are together. Google is the one that represented that this  
8 document was the document referenced in the email. But beyond  
9 that, any document can be used to refresh a witness's  
10 recollection. So, you know, to the point that that's all it's  
11 being used for, it's either going to refresh his recollection  
12 or not.

13 THE COURT: Mr. Gage, based on that representation  
14 from Ms. Greene, the whole document can be shown to  
15 Mr. Shaukat, but only to him.

16 MR. GAGE: Understood, your Honor. We can just move  
17 on. I can't recall, and I trust counsel's representation on  
18 that point, that skipped Bates numbers I had forgotten about  
19 since we thought this document --

20 THE COURT: I'm almost ready now.

21 MR. GAGE: Shall we have Mr. Shaukat sit then?

22 THE COURT: Yes, he can sit.

23 MR. GAGE: Your Honor, I'm going to do my best to  
24 finish in 25 or so.

25 THE COURT: Okay. All right. I'm ready.

NACVROW3

Shaukat - Cross

1 Let's go till 1 instead of 12:45.

2 MR. GAGE: Mr. Shaukat, I think you can stay where you  
3 are.

4 THE COURT: Ms. Williams, can you please get the jury.

5 THE DEPUTY CLERK: Sure.

6 THE COURT: I am not -- no, I'm not going to do this  
7 now.

8 (Jury present)

9 MR. GAGE: May I begin, your Honor?

10 THE COURT: You may.

11 BY MR. GAGE:

12 Q. Mr. Shaukat, did you hire someone for the retail vertical?

13 A. I did.

14 Q. Who did you hire for the retail vertical?

15 A. Carrie Tharp.

16 Q. And at the time you hired her, what was your understanding  
17 of Ms. Tharp's background?

18 A. She had most recently been the chief digital officer at  
19 Neiman Marcus, the department store chain. Previously, she had  
20 had a long career in retail and consulting.

21 Q. I'm going to pivot to another topic. I think you talked  
22 about this yesterday with Ms. Greene.

23 Did there come a time that you understood that  
24 Ms. Rowe might leave Google Cloud if she was not given the  
25 financial services vertical lead?

NACVROW3

Shaukat - Cross

1 A. I believe Brian Stevens had referenced that she was  
2 starting to look at other roles outside of Google Cloud, yes.

3 Q. And to your knowledge, did any of the other four -- any of  
4 the other three OCTOs who came into your organization indicate  
5 that they would leave if they didn't get the vertical lead  
6 role?

7 A. They did not, no.

8 Q. Did you want Ms. Rowe to leave?

9 A. I did not.

10 Q. Why not?

11 A. From everything I had heard in my -- from the teams, etc.,  
12 I thought that she was very capable in adding value in her OCTO  
13 role. And I was hoping that she would be able to do the same  
14 in the financial services role.

15 Q. Pivot to a different topic.

16 Do you remember you were asked by Ms. Greene about an  
17 email that you got from Ms. Rowe where she respectfully  
18 declined the role in your organization? Do you remember that?

19 A. I do.

20 MR. GAGE: I'd like to show the witness -- this is a  
21 plaintiff's exhibit, so I think the jury can see it, P-24.

22 Q. If you could just take a moment and take a look at this,  
23 Mr. Shaukat. And then could you -- if you need to see the  
24 second page, we can flip to the second page.

25 My question will be, can you tell us what this is?

NACVROW3

Shaukat - Cross

1 A. If you don't mind flipping to the second page just very  
2 quickly, please. Oh, okay. Great. Thank you.

3 Would you like me to answer?

4 Q. Yes. Can you tell us what this is?

5 A. Yes. This is an email from myself to Melissa Lawrence, who  
6 was Brian Stevens' and Will Grannis's HR business partner, and  
7 copying Fiona O'Donnell, who was my HR business partner, that  
8 was a response to, I believe, Ulku's response in which she said  
9 that she was declining the role on my team.

10 Q. And so why did you ask Ms. Lawrence for feedback on this?

11 A. So there was not a change in -- it was unclear to me. I  
12 had interpreted Ulku's "no" back to me as a resignation from  
13 Google. Because to use the term we used yesterday, this was a  
14 lift and shift of an entire team from one place to another. So  
15 it was a manager change, as we called it. By respectfully  
16 declining, as I think the words were, it was -- it seemed to me  
17 that she may be resigning. And I wanted to make sure there was  
18 no confusion about -- in the communication that accidentally  
19 led to the resignation.

20 Q. And did you ultimately come to a final email response that  
21 you sent to Ms. Rowe?

22 A. Yes.

23 Q. And I think we saw that yesterday. We don't need to put  
24 that up again.

25 In that communication to Ms. Rowe, did you give her

NACVROW3

Shaukat - Cross

1 the opportunity to build a team?

2 A. I believe I did, yes.

3 Q. And what did you mean when you offered her the opportunity  
4 to build a team?

5 A. Well, she, like the other folks who came over, were being  
6 designated the head of that global client technical lead  
7 department. In most cases, that department was just themselves  
8 at that point. So they had the opportunity to build out that  
9 team.

10 Q. And did Ms. Rowe ever do anything, to your knowledge, to  
11 take advantage of that opportunity?

12 A. Not to my knowledge.

13 Q. I'd like to go to Exhibit P-69, which is a document that  
14 you were questioned about yesterday.

15 MR. GAGE: And Jean, if we could go to on page 133 of  
16 this. Pause there.

17 Q. I'm going to show you, Mr. Shaukat, this is the entry for  
18 July 20th.

19 And now I'm going to ask that we go down to page 135,  
20 where it addresses the financial services vertical lead, so you  
21 can see it. There's a name on here, Diana Leyfield. Was  
22 Ms. Leyfield someone under consideration for the financial  
23 services vertical lead role?

24 A. She was.

25 Q. And what was -- at the time, what was your understanding of



NACVROW3

Shaukat - Cross

1 Ms. Leyfield's role?

2 A. She was an internal candidate from Google. She had run and  
3 very successfully built a large payments business for Google  
4 starting in India and then in a number of other countries. And  
5 prior to that, my understanding had been she was a CEO of a  
6 large bank in Africa, a division of a global bank called  
7 Standard Chartered.

8 Q. And so at the time you were considering her, she was  
9 already at Google?

10 A. She was, yes.

11 Q. And what level was she? What was your understanding of her  
12 level at the time?

13 A. I believe she was the vice president.

14 (Continued on next page)

15

16

17

18

19

20

21

22

23

24

25

NACHRow4

Shaukat - Cross

1 MR. GAGE: Now, I'd like, Jean, if we could go to  
2 page 117 of P69.

3 Q. We're going to move forward in time, Mr. Shaukat, to  
4 August 10.

5 And then now if we can pivot, Jean, to page 118.

6 Now, as of mid-August, Mr. Shaukat, did you have any  
7 — did you prefer any of the candidates that were listed here  
8 at the time?

9 A. I don't believe so. We had agreed to advance Ranjana  
10 Clark, who was the first person here, to Diane, Diane Greene,  
11 that is. She had not yet agreed to meet with Ranjana Clark,  
12 but there was no frontrunner, per se.

13 Q. At the time what was your view of the likelihood that  
14 Ms. Rowe would get the financial services vertical lead role?

15 A. As we covered yesterday, I had had some reservations  
16 myself. The feedback that I had received at this time said  
17 essentially what was here, was that one of the interview panel  
18 had liked her and one had liked her but had some questions. So  
19 I — she was still in contention, but she was not the  
20 frontrunner in my mind at this point.

21 Q. Relative to Ms. Rowe as a candidate, did you have any  
22 leanings towards any others?

23 A. So we had — Ranjana Clark was very high on our list, as  
24 was Diana Layfield. Tais O'Dwyer, who's listed, here  
25 originally interviewed for that lead role. She ended up

NACHRow4

Shaukat - Cross

1 joining my team as a member of the team, the global client  
2 lead, so the nontechnical counterpart, if you will.

3 MR. GAGE: Now, we could stay on this document. We're  
4 going to come back to it. You can take the highlight away,  
5 Jean.

6 Q. Yesterday, or could have been today, you were asked some  
7 questions about Sebastien Marotte, Jason Martin, and others who  
8 interviewed Ms. Rowe. Were you familiar with them as  
9 colleagues at Google?

10 A. Yes. They had all reported to me at some point.

11 Q. And in your experience, did they take their  
12 responsibilities seriously when you asked them to interview  
13 candidates?

14 A. Extremely, yes.

15 Q. Did you ever say or do anything to any of the interviewers  
16 that might have led them to not take Ms. Rowe's interview  
17 seriously?

18 A. No. And we treat the interviews with a high level of  
19 confidentiality in general; meaning they're not supposed to be  
20 discussed amongst each other until the interview happens.

21 Q. Do you have any reason to believe that any of those  
22 interviewers approached Ms. Rowe's interview differently than  
23 they approached any others?

24 A. I do not.

25 MR. GAGE: Jean, if we could just go to page 95, just

NACHRow4

Shaukat - Cross

1 so we can see the date. So August 31. Now, if we can just  
2 jump to page 97.

3 Q. Is this table here a list of candidates potentially in the  
4 running for financial services vertical lead?

5 A. Yes.

6 Q. At the bottom I see a name Jane Fraser. Who does that  
7 refer to?

8 A. At the time I had forgotten we had talked to her. At the  
9 time, she was CEO of Latin America at Citigroup. She is now  
10 the CEO of Citigroup.

11 MR. GAGE: We can take this down.

12 Q. Did there come a point in time that you started to focus on  
13 one candidate as your preferred candidate in this process?

14 A. Yes. Towards — I think it was September, October of this  
15 year, we decided that Diana Layfield was the likely  
16 frontrunner.

17 Q. I think you testified already — well, I'll just ask you  
18 the question.

19 Did you ever at any point get to a place where you  
20 were ready to make an offer to anyone?

21 A. We had decided on — by October/November time frame, we had  
22 decided on Diana as the candidate we wanted to make an offer  
23 to. We then put that on hold because of some of the  
24 organizational changes inside of Google.

25 MR. GAGE: Right. Just trying to economize here,

NACHRow4

Shaukat - Cross

1 Judge.

2 Q. Mr. Shaukat, do you remember — you testified earlier about  
3 Diane Greene leaving Google. Do you remember when you first  
4 learned that Diane Greene was going to be leaving Google?

5 A. Mid-October of 2018.

6 Q. How did you find out?

7 A. From Diane Greene.

8 Q. And did you learn who her replacement was going to be?

9 A. Yes, Thomas Kurian.

10 Q. At the time did you have an understanding, even generally,  
11 about what you might expect from Mr. Kurian as your new boss?

12 A. I had never met Thomas. At that time there had been,  
13 coincidentally, a number of press releases about him at roughly  
14 that same time in prominent magazines and publications in  
15 Silicon Valley that described him as an extraordinarily tough  
16 boss.

17 Q. And did that change affect the plans that you had as a  
18 leader in the company for your organization?

19 A. They did, yes. It did, yes.

20 Q. How so?

21 A. So as I had mentioned earlier, my organization was really a  
22 strategic build for the — for the company. This was not  
23 something that many of the cloud providers had at that time.  
24 It was really a core pillar of our strategy, and it felt like  
25 Thomas, coming from Oracle, which he did, at one of our

NACHRow4

Shaukat - Cross

1 competitors, might have a different view of strategy. And so  
2 as a result, I was quite concerned about two things. One is  
3 making sure we didn't move forward with individuals who Thomas  
4 may then come and say, no, we no longer need that job. So I  
5 wanted to make sure of that. I also wanted to make sure my  
6 team was fairly represented as he joined the company so he  
7 understood what it did.

8 Q. Mr. Shaukat, also around this same time you gave some  
9 testimony earlier about a November 7 email that you received  
10 from Ms. Rowe that was sent to you and Diane Greene. Do you  
11 remember that?

12 A. I do.

13 Q. I think you testified earlier this morning that that was  
14 the first time, when you got that email, that you understood  
15 that Ms. Rowe was relating her concerns about her level to her  
16 gender, correct?

17 A. Correct.

18 MR. GAGE: If we could pull that up. I have the  
19 defendant's, but — there we go, P55. I believe we've seen  
20 this. If we could go to the bottom email and just highlight  
21 the bottom email so folks can see that. Thank you, Jean.

22 Q. You see where you wrote, "I don't think it is good for her  
23 to have that perception if that is correct."

24 Why did you think that?

25 A. I mean, in general it seemed to be causing her quite a lot

NACHRow4

Shaukat - Cross

1 of distress, and if the team had looked into it and resolved  
2 it, then I thought that they should communicate the results to  
3 her.

4 MR. GAGE: You can take that down.

5 Q. Did you want Ms. Rowe to be happy in your organization?

6 A. Yes.

7 Q. Ms. Rowe testified about some options that she was given  
8 after you asked Mr. Breslow to lead the effort on financial  
9 services. What were the three options that you gave to her?

10 A. I believe they were — this is after I appointed Stuart as  
11 the interim head. I believe they were she could take the role  
12 that we had slotted her into, which is that global client  
13 technical lead role with the option of building the team.  
14 There was — that was a change. That was an expansion of the  
15 scope that she had had in OCTO, which was an individual  
16 contributor role.

17 So I also offered the opportunity to be an IC, to let  
18 someone else build the team and not take on managerial  
19 responsibilities. That was the second option.

20 And the third option was that I would essentially help  
21 her if she found another role inside of Google that she  
22 preferred by — I don't remember if this was in that exchange,  
23 but by offering head count for the role, so, in other words,  
24 offering the budget for her role so that someone else could —  
25 could offer her a position.

NACHRow4

Shaukat - Cross

1 Q. When you say offer head count, what does "head count" refer  
2 to?

3 A. So in Google you budgeted on two different dimensions. You  
4 budgeted on operating expense, so marketing costs and travel  
5 and things like that, and then you budgeted on head count. So  
6 every team was given a certain number of people that they could  
7 hire. Generally wasn't by level or anything like that. It was  
8 just you get to hire ten people; you get to have ten people on  
9 your team. It was probably the scarcest commodity at Google.  
10 People really protected the head count that they had because  
11 it's a people-intensive business. So it's very important.

12 Q. Like cigarettes in prison, as they say?

13 A. Yes, exactly.

14 Q. Did you ultimately end up giving up head count for  
15 Ms. Rowe?

16 A. I did.

17 Q. And who did you give that head count to?

18 A. To Will Grannis when she — and Will made an agreement that  
19 she could move back to OCTO in a different role.

20 Q. And may I assume you had discussions with Mr. Grannis about  
21 this?

22 A. For the most part, he and Ulku sort of sorted it out  
23 themselves, and then I said that I would give the head count,  
24 which is something I had not previously done for anyone else.

25 Q. Did you do it for Mr. Kember, Mr. Wilson?



NACHRow4

Shaukat - Cross

1 A. I did not.

2 Q. And when you agreed to let her go back to OCTO, were there  
3 any restrictions on what she should be doing in OCTO?

4 A. Yes. The industry-specific work had to be done on my team.  
5 So by opting to move to a different team, she had to choose a  
6 focus area that was not industry-specific. And I believe that  
7 they chose — she and Will agreed on what's called hybrid  
8 cloud, which is basically how do you use the cloud technologies  
9 in the cloud as well as on premises in your own data center.

10 Q. And was Ms. Rowe in any way being punished by the decision  
11 that if she went back to OCTO, she had to focus on hybrid cloud  
12 instead of focusing on financial services?

13 A. I don't believe it was a punishment. In fact, hybrid cloud  
14 was one of the major strategic growth paths for the business at  
15 the time. We had just — either just before or just after  
16 launched a number of innovations in that area. So it was a  
17 critical focus area for us.

18 Q. And did you hope that this would make Ms. Rowe happy?

19 A. I did.

20 Q. Just a couple more questions for you, Mr. Shaukat.

21 You were asked about your severance package earlier  
22 today. Were you paid well at Google while you were there?

23 A. I was, yes.

24 Q. Do you have an understanding of whether the severance  
25 package that you were given was a standard package for someone

NACHRow4

Shaukat - Redirect

1 at your level?

2 A. That was my understanding, yes.

3 Q. Have you told the truth here today?

4 A. I have.

5 Q. And yesterday?

6 A. Yes.

7 Q. You were here testifying yesterday.

8 And did the separation agreement that you have with  
9 Google in any way affect the content of your testimony?

10 A. Absolutely not.

11 MR. GAGE: No further questions, your Honor.

12 REDIRECT EXAMINATION

13 BY MS. GREENE:

14 Q. Mr. Shaukat, I just want to ask you a few follow-up  
15 questions.

16 Mr. Gage asked you if you were at all involved in  
17 leveling Ms. Rowe, Mr. Eryurek, Mr. Strong, Mr. Wilson. Do you  
18 recall that?

19 A. I do. At the time of hiring, yes.

20 Q. And you said you weren't, correct?

21 A. As best as I can recall, yes.

22 Q. Now, at the time that you learned that Ms. Rowe had  
23 concerns about being underleveled back in June of 2018, did you  
24 yourself do anything or undertake any efforts to see whether  
25 Ms. Rowe was underleveled?

NACHRow4

Shaukat - Redirect

1 A. No, I asked her hiring manager and his boss to look into  
2 it, but apart from that — or I asked — I raised the concern  
3 with them, but I did not do anything separate.

4 Q. Did you raise a concern with HR?

5 A. I did not.

6 Q. Do you know whether Google's employee relations group has a  
7 special category for investigating underleveling complaints?

8 A. I did not know that.

9 Q. Now, you were asked about the vice president roles in your  
10 organization. Do you recall Mr. Gage asking you about that?

11 A. Yes.

12 Q. And those are the vice president roles other than the VP of  
13 financial services that he was questioning you about, correct?

14 A. I believe Carrie Tharp, in particular, and John Honeycutt.

15 Q. Before we get there, he was talking about the importance of  
16 a vice president being able to articulate vision. Do you  
17 recall testifying about articulating a vision?

18 A. Yes.

19 Q. Do you know what questions the interviewers asked of  
20 Ms. Rowe in her interviews?

21 A. I do not.

22 Q. Do you know whether any of them asked what her vision for  
23 financial services were?

24 A. From the notes that I saw from Jason Martin, it appears  
25 that he asked because he has notes about what she would do to

NACHRow4

Shaukat - Redirect

1 develop a vision, but apart from that, I have no direct  
2 knowledge, no.

3 Q. You don't know whether any of the interviewers gave her the  
4 opportunity to articulate a vision, correct, because you don't  
5 know what they asked her?

6 A. As I mentioned, the interviews were confidential, so I do  
7 not know what they asked her.

8 Q. So you don't know whether, in fact, Ms. Rowe did have an  
9 articulated vision for the financial services, correct?

10 A. I — sorry, could you repeat the question.

11 Q. You did not know whether Ms. Rowe had an articulated vision  
12 for the financial services?

13 A. I had seen no evidence that she had an articulated vision  
14 for the financial services, correct.

15 Q. After that first meeting you had with her when you said  
16 that you didn't know her well and she said she'd like to fix  
17 that and tried to schedule meetings with you, did you meet with  
18 her to give her the opportunity to articulate that vision?

19 A. I'm sure I've met with her a couple of times as you pointed  
20 out yesterday, but I don't recall how many times.

21 Q. Isn't the first time you met with her September 13, 2018, a  
22 month after these interviews had taken place?

23 A. Again, I don't recall the details of my calendar during  
24 that summer.

25 Q. So Ms. Rowe did not have the opportunity to present you

NACHRow4

Shaukat - Redirect

1 with anything related to her vision or plan for financial  
2 services between the time of June and September because you  
3 hadn't met with her, correct?

4 A. Again, I don't know the details of my calendar, but she did  
5 not ask for time to present that either, so —

6 Q. Is it your testimony that she didn't ask to meet with you  
7 in that three-month period?

8 A. No. My — what I was saying is I don't recall the details  
9 of my calendar during that time. The same introductory meeting  
10 that I had with her I had with others who did present their  
11 vision for this space. In that meeting she did not say, I have  
12 a vision for the space, and I would like to come and present  
13 that to you. I do not recall her saying that, which is  
14 something her colleagues had done.

15 Q. Well, she did say I'd like to meet with you to — so you  
16 can get to know me better more and know what my qualifications  
17 are with respect to that specific role. She did tell you that,  
18 correct?

19 A. I recall her saying that she wanted to meet with me, and as  
20 I mentioned, I copied in my assistant to try to schedule those  
21 meetings.

22 Q. It's your testimony that you copied in your assistant to  
23 try to schedule meetings with Ms. Rowe during the period of  
24 June through September?

25 A. As we saw in the email you presented yesterday, I plussed

NACHRow4

Shaukat - Redirect

1 in my assistant when she asked, and normally that is an  
2 indication that my assistant is to schedule those meetings,  
3 yes.

4 Q. Was that actually with respect to just getting her on your  
5 emails? That wasn't with respect to scheduling meetings,  
6 correct?

7 A. I don't recall the specific. I think she wanted to get  
8 into my — into the staff meetings, and so that was with  
9 respect to scheduling meetings, yes.

10 Q. We can look back at those documents if necessary in just  
11 one moment.

12 You talked, though, about Ben Wilson and Jeff Kember  
13 coming in with a plan?

14 A. Yeah.

15 Q. And who were the vice presidents who ultimately were put  
16 into those roles?

17 A. So for Jeff Kember, it was John Honeycutt who I mentioned  
18 in the meeting and entertainment space. And for Ben Wilson, as  
19 I mentioned, we hired two different people. One was a vice  
20 president named Darryl Willis for energy, and one of them was a  
21 director named Dominik Wee for manufacturing. We split that  
22 industry into two.

23 Q. When was Darryl Willis hired?

24 A. I don't recall.

25 Q. Well, it was before Mr. Wilson moved into your

NACHRow4

Shaukat - Redirect

1 organization, correct?

2 A. I don't recall when Darryl joined the company.

3 Q. Well, Mr. Willis was one of the people that interviewed

4 Ms. Rowe, correct?

5 A. Yes, later on that summer, correct.

6 Q. So it's possible that Mr. Wilson didn't get the role

7 because you'd already filled the role, correct?

8 A. It's possible yes.

9 Q. Isn't the same also possible with respect to Mr. Honeycutt

10 and Jeff Kember?

11 A. John Honeycutt joined in November of 2018, so that would

12 not be the case, no.

13 Q. You knew that Jeff Kember, I think you testified yesterday,

14 was a Level 5 or 6, correct?

15 A. I thought he was a Level 6 or 7, but yes.

16 Q. Do you think a Level 6 or 7 could do a Level 10 job?

17 A. As I mentioned yesterday, I — if someone internally puts

18 their hat in the ring, I assess them based on — on what they

19 bring to the opportunity. And I didn't look at people's levels

20 when deciding whether they could do the job. I looked at the

21 content of what they discussed with me and made my assessment

22 from there.

23 Q. You were talking about, in defending your choice of

24 Mr. Breslow, his regulatory connections. Do you recall that?

25 A. His regulatory experience, I believe, yes.

NACHRow4

Shaukat - Redirect

1 Q. And the importance of that, correct?

2 A. Yes.

3 Q. Did you know anything about Ms. Rowe's regulatory  
4 experience?

5 A. No, but he was — no, I do not.

6 Q. So you don't know if she regularly met with the SEC or the  
7 CFTC or the Federal Reserve or the European counterparts or the  
8 Australian regulatory agencies. You didn't know at all what  
9 her relationships were with the regulators, correct?

10 A. No, that's not correct exactly. At Google I oversaw  
11 regulatory interactions, and so interactions she had during her  
12 time at Google I would have been aware of because it rolled up  
13 through me. That was not the — I have no knowledge of what  
14 she did before Google, but during her time at Google, I had a  
15 fair amount of oversight over the compliance and regulatory  
16 operations.

17 Q. And so is it your testimony that Ms. Rowe didn't meet with  
18 those regulators?

19 A. No, that is not what I said. What I said is I would have  
20 awareness of who she would have met. That's different from  
21 having relationships, per se.

22 Q. What do you know about her relationships or meetings with  
23 regulators?

24 A. On occasion client teams would pull all sorts of people  
25 into meeting with regulators. I have a faint recollection, but



NACHRow4

Shaukat - Redirect

1 I couldn't say it's absolutely certain, that while she was in  
2 OCTO, she met with both the Australian and, I think, the UK  
3 regulators as part of some introduction to cloud types of  
4 presentations, but I don't have a specific — she was in the  
5 mix because part of the financial — part of talking to  
6 regulators about financial services was them understanding the  
7 technical capabilities of cloud. So, at a minimum, she was  
8 discussed as somebody who could do that.

9 Q. You understood that she had that capability; you may not  
10 know the full extent of her meetings with regulators?

11 A. Again, within Google I think I — I don't recall the  
12 specifics because it was many years ago, but at the time I  
13 would have known.

14 Q. Didn't regulatory relationships roll up to public policy?

15 A. To Pablo Chavez, it did, correct.

16 Q. Is that in your organization?

17 A. I helped hire Pablo, and I was, I will call it, the  
18 executive sponsor, like the business sponsor. Pablo Chavez  
19 reported into, I believe, our legal department outside of  
20 cloud. So I was the cloud lead for regulatory, which is why I  
21 hired a role and Mr. Breslow to do that.

22 Q. With respect to Mr. Chavez, he was the one — the public  
23 policy group was the one that had the knowledge of the  
24 regulatory relationships because he was the one that rolled up  
25 to, correct? So you would not have had a full picture?

NACHRow4

Shaukat - Redirect

1 A. It rolled up to him, but as I just said, he reported to  
2 another part of Google. And within the cloud, I was the lead  
3 for regulatory engagement in general.

4 Q. Do you know whether Ms. Rowe's performance evaluations  
5 highlighted and called out her regulatory work as something  
6 that was exceeding what others in OCTO were doing?

7 A. I — I do not believe I saw her performance reviews, no.

8 Q. Would you doubt if Mr. Grannis and others praised her  
9 regulatory work and relationships, that wasn't true?

10 A. No, I — financial services is a regulated industry. It is  
11 hard to work in financial services without having some  
12 experience with regulators.

13 Q. And do you know that in March of 2019, while she was still  
14 in your organization, she was appointed to the Federal Reserve  
15 Bank of New York's fintech advisory committee?

16 A. Yes, I believe at my recommendation, in fact.

17 Q. That's your testimony, that it was at your recommendation?

18 A. I believe I was consulted on who should be put forward for  
19 that, and I suggested or someone suggested Ulku, and I agreed.  
20 I can't remember the order of that, but, yes, I was part of the  
21 discussion about whether Ulku should be Google's representative  
22 to — within that committee at the fed.

23 Q. So you believe that she was well-qualified to represent  
24 Google with the Federal Reserve Bank of New York?

25 A. On technical matters, yes. I've never doubted, as I

NACHRow4

Shaukat - Redirect

1 mentioned, Ulku's technical qualifications.

2 Q. Well, let's talk more about the qualifications that you  
3 covered with Mr. Gage today. I want you to look at  
4 Plaintiff's 14.

5 Is there an objection to this document?

6 (Counsel confer)

7 MS. TOMEZSKO: No objection.

8 MS. GREENE: OK. We can go ahead and put that up.

9 Q. This is an email between you and Mr. Stevens from February  
10 of 2018, correct?

11 A. February 2018, yes.

12 Q. In the bottom email there's a discussion about the 2018 S&P  
13 Global Leadership Forum?

14 A. Correct.

15 Q. And it's a small group of curated panelists, correct?

16 A. Correct.

17 Q. And you reached out to Brian Stevens, correct?

18 A. Looks like it, yes.

19 Q. And Brian said, "Could always offer to Ulku or someone else  
20 in OCTO," and you answered, "Yes. Who do you think would be  
21 best? Ulku?"

22 That was your question, correct?

23 A. Yes.

24 Q. And Mr. Stevens said, "Ulku, if we feel they must have FSI  
25 cred, so start with her."

NACHRow4

Shaukat - Redirect

1           What is FSI cred?

2       A.   Credibility in financial services.

3       Q.   Do you know if Ms. Rowe did participate in that S&P global  
4       leadership summit?

5       A.   I don't recall.

6       Q.   Let's look at another document that we looked at yesterday  
7       for a different purpose related to your testimony today.   Let's  
8       pull up P16.

9           Now, you mentioned that one of the problems with  
10       people coming from OCTO is that they didn't have deep C-level  
11       relationships.   Do you recall giving that testimony earlier?

12       A.   Yes.   I don't think I framed it that way, but yes.

13       Q.   And you, I think, testified yesterday that you didn't  
14       actually know the nature or extent of Ms. Rowe's C-level  
15       relationships, correct?

16       A.   Correct.

17       Q.   In this document, though, when Mr. Stevens, the CTO, was  
18       asking you to consider Ms. Rowe for the position, he  
19       specifically called out, if we can look at the bottom, "She has  
20       great respect from Cx level at the banks."

21           So you did have some knowledge about the deep level of  
22       respect that she had from the C-suite, correct?

23       A.   No, I had one line from Brian Stevens suggesting it, but,  
24       again, I had an absence of evidence from other sources to that  
25       effect.

NACHRow4

Shaukat - Redirect

1 Q. And you didn't do anything to fill that absence, correct?

2 A. I didn't see a need to, no.

3 Q. Because you'd already decided she wasn't right for the  
4 role, correct?

5 A. She had not come in with the other — this was not a  
6 résumé. This was a do you have a vision? What would you do?  
7 You've been in here for a couple of years. You know, let's  
8 hear what you have to say. And she did not, as I said, blow me  
9 away with that.

10 Q. Well, you talked earlier about Mr. Breslow being  
11 recommended by Ruth Porat, correct?

12 A. Yeah. She was an internal reference, which is different  
13 than recommended by, but yes.

14 Q. OK. Mr. Stevens actually recommended Ms. Rowe for this  
15 role, correct?

16 A. He asked me to consider her for this role, yes.

17 Q. He said she's really calibrated and has the right  
18 connections, correct?

19 A. That was his opinion, yes.

20 Q. You mentioned Carrie Tharp?

21 A. Carrie Tharp.

22 Q. Yeah. She was actually hired in August of 2019, correct?

23 A. I don't recall the date that she was hired.

24 Q. And that was after Ms. Rowe had obtained legal counsel and  
25 approached Google about her concerns, isn't that right?

NACHRow4

Shaukat - Redirect

1 A. I don't know when Ms. Rowe got legal counsel or approached  
2 Google.

3 Q. Were you given a litigation hold at that time?

4 A. I got, as I mentioned, a lot of litigation holds. I don't  
5 recall if I got one specifically for this or not.

6 Q. Given your involvement in the case, would you expect you  
7 would have gotten a litigation hold at that time?

8 MR. GAGE: Object.

9 THE COURT: Sustained.

10 Q. Let me ask you a different question.

11 How long do interviews for a high-level VP role  
12 typically last?

13 A. Thirty to 45 minutes would be typical.

14 Q. You were asked if you had any reason to believe that those  
15 interviews were not typical, correct?

16 A. I don't remember that, but I don't believe they were  
17 atypical.

18 Q. Did Sebastien Marotte's email saying it was only 30  
19 minutes, that caveat, suggest to you that maybe it wasn't the  
20 fulsome interview that would be necessary for him to reach a  
21 conclusion as to Ms. Rowe's qualifications?

22 A. No. As I just mentioned, 30 to 45 minutes would not be  
23 atypical. I think that he said that he was open to other  
24 people, like, getting to a different conclusion, which is  
25 different.

NACHRow4

Shaukat - Redirect

1 Q. Is it typical for interviewers to not in any form or  
2 fashion give any feedback into the gHire system?

3 A. Unfortunately, it was. Yes, it was not the most easy to  
4 use system, and people tended to fill it out only when an offer  
5 was about to be made or their cases were being closed out.

6 Q. Is it typical not to send any written communications about  
7 the review on a candidate?

8 A. Honestly, you'd have to ask recruiting. I got most of my  
9 feedback through recruiting, and I don't know if that was  
10 verbal or written typically.

11 Q. Do you know whether Diane Layfield had gHire feedback?

12 A. I don't recall if she did or not.

13 Q. Do you know if Ranjana Clark had gHire feedback?

14 A. Again, I don't recall if she did or not.

15 Q. Do you know if Tais Dwyer had it?

16 A. Tais O'Dwyer? No, I don't know if she had it either.

17 Q. You understood that as of November 7, that Ms. Rowe was  
18 raising a complaint of gender bias, correct?

19 A. Through that email, yes.

20 Q. And that was before you decided to have Mr. Breslow take on  
21 the interim role, correct?

22 A. As we established, I think, yesterday, I had started  
23 considering putting in Stuart in October/November of that year,  
24 and then I officially announced it in January subsequent to  
25 that, yeah.

NACHRow4

Shaukat - Redirect

1 Q. When we've heard two different versions of that story?

2 A. Yes, I can explain, if you would like me to explain, the  
3 different versions of that.

4 Q. You want to — no, I mean, I think the jury heard for  
5 themselves your absolutely contradictory testimony on a very  
6 straightforward question.

7 A. It was, unfortunately, not a straightforward —

8 THE COURT: Ms. Greene.

9 A. So I can explain, if you would like, the apparent  
10 contradiction that is not, in fact, a contradiction. I'm happy  
11 to do so.

12 THE COURT: I think you've opened the door to that  
13 now.

14 Q. Sure. Please explain.

15 A. So as we just heard, in October I found out that Diane  
16 Greene was leaving Google; Thomas Kurian was coming into  
17 Google. At the time in my staff meeting, I had 25 people  
18 reporting in to me or coming in to my staff meeting. One of  
19 the things that we had to do was clean up my direct reports.  
20 So that did not mean that we were appointing anyone officially.  
21 It was what we call a span breaker.

22 So as a part of my direct report line in here, I also  
23 in financial services had Leonard Law, who is our product  
24 manager for financial services, as an example, attending my  
25 staff meetings at this time. So there were numerous people who



NACHRow4

Shaukat - Redirect

1 would eventually report to somebody who were in my staff  
2 meeting. I made a decision in October, for what I thought was  
3 the good of the organization to be able to show to Thomas that  
4 we were not — that we were running a disciplined organization,  
5 to put Stuart in as a span breaker to help me reduce the number  
6 of direct reports and to make it look like it was a coherent,  
7 lack of a better word, organization.

8 What was implied yesterday was that I then shut down  
9 the searches for Ranjana Clark or Diana Layfield, which was not  
10 true. We assumed that this would be a very temporary  
11 appointment as interim, and Diana Layfield was still somebody  
12 that we were planning to hire. We only reversed that decision  
13 later on in December. I believe November/December after I met  
14 Thomas, and that's when we decided that the Stuart interim  
15 appointment would go on longer than we had initially said.

16 So I got confused between the span breaker versus the  
17 other. In my mind, those are two separate appointments,  
18 essentially.

19 Q. OK. So before you told Ms. Rowe that she was not getting  
20 the job, you had decided that Mr. Breslow was going to perform  
21 it on an interim basis, correct?

22 A. Until I had gotten an opportunity to meet with Thomas  
23 Kurian, yes.

24 Q. And you didn't tell Ms. Rowe that, correct?

25 A. Correct.

NACHRow4

Shaukat - Redirect

1 Q. Then after, you decided to make it more permanent, correct?

2 A. After Thomas said he was not willing to invest in financial  
3 services beyond financial crimes until further review, and that  
4 review would happen in January or February of 2019 at that  
5 point, and so at that time I decided it would be unfair to  
6 Ms. Layfield to offer her the job given so much uncertainty and  
7 to extend Stuart into the interim lead for a longer period of  
8 time.

9 Q. How long was he the interim lead?

10 A. To my knowledge, until he left Google, which would have  
11 been in 2020, because as, in fact, the strategy evolved, we  
12 ended up focusing purely on financial crimes and financial  
13 services during that time period.

14 Q. Google was still doing work elsewhere on financial  
15 services, weren't they?

16 A. Google had sales efforts in financial services, yes.

17 Q. And so that was still work that was necessary, in fact,  
18 important to business development with respect to financial  
19 services, correct?

20 A. Yes. But it's important to understand the nature of my  
21 team, and my team is not a sales team. So we were not involved  
22 with that work typically.

23 Q. Did you tell Ms. Breslow — I'm sorry, Ms. Rowe, at the  
24 time that you told her she wasn't going to get the job was  
25 because you wanted to focus on someone who had more business

NACHRow4

Shaukat - Recross

1 development? Was that the reason you gave her?

2 A. I don't believe I gave her that reason, no.

3 Q. Let's look at Plaintiff's 67.

4 Do you recognize this document?

5 A. I do.

6 Q. I want to draw your attention to that first paragraph where  
7 you said "I told Ulku the following."

8 A. Uh-huh.

9 Q. And you say: "I think in finserv we will likely be looking  
10 for someone with more sales and business development  
11 orientation."

12 That's what you told her in that meeting, correct?

13 A. That's what this says, likely in the future, as the  
14 strategy evolved, that that's what we would be looking for,  
15 yes.

16 Q. That's what you said to Ms. Rowe and documented here,  
17 correct?

18 A. Yes.

19 MS. GREENE: No further questions.

20 MR. GAGE: Just briefly, your Honor, a couple of  
21 points.

22 THE COURT: Yes.

23 RECROSS EXAMINATION

24 BY MR. GAGE:

25 Q. Almost done, Mr. Shaukat.

NACHRow4

Shaukat - Recross

1           When Ms. Greene got back up here, she began with one  
2 of her first questions suggesting that the first time you met  
3 with Ms. Rowe was in September.

4           Can we bring up P16, please, on the screen. Let's  
5 see. Could you highlight in the middle email there, May 8,  
6 2018.

7           "I met with her once in a very exploratory fashion."  
8 Does this suggest you met with her before September?

9 A. Yes.

10 Q. And when does this suggest you met with her?

11 A. Either in very early May or, I would assume, April or March  
12 before that.

13           MR. GAGE: We can take this down. Can we go to P30,  
14 please.

15 Q. You see this is an email that Ms. Rowe sent to you on  
16 July 1?

17 A. Yes.

18 Q. In this email, Ms. Rowe asks you for help to get started.  
19 You see that?

20 A. Yes.

21 Q. Then at the top above that, you respond to her saying:  
22 "Sounds great. Look forward to connecting."

23           And Jess Murphy-True is on the "to" line here. Who is  
24 she?

25 A. She was my assistant.

NACHRow4

Shaukat - Recross

1 Q. Why'd you add her to this?

2 A. She's responsible for all scheduling and managing my  
3 calendar, so she was — this is my way of telling her to please  
4 go ahead and schedule.

5 Q. Does this suggest to you that you met again with Ms. Rowe  
6 before September?

7 A. It suggests certainly that that was my intention. Whether  
8 I met again, I don't remember the calendar for that summer.

9 MR. GAGE: You can take that down.

10 Q. Just one last question.

11 In your experience, Mr. Shaukat, is the length of an  
12 interview for a senior role at Google in part a function of how  
13 much information the candidate has to share?

14 A. Yes.

15 MR. GAGE: Thank you.

16 No further questions, your Honor.

17 MS. GREENE: Your Honor, before we dismiss with the  
18 witness, may we have a short sidebar?

19 THE COURT: Yes.

20 (Continued on next page)

NACHRow4

Shaukat - Recross

1 (At sidebar)

2 MS. GREENE: I neglected to ask Mr. Breslow about —  
3 Mr. Shaukat about his knowledge of Mr. Breslow's concerns. It  
4 just wasn't in my outline after the late ruling. I'd like to  
5 be able to just ask him three questions related to that.

6 MR. GAGE: I strenuously object. Excuse the adverb,  
7 Judge, but that's not the way trials work. She can't go beyond  
8 the scope of what I asked him about. That's not the way trials  
9 are conducted.

10 MS. GREENE: Alternatively —

11 MR. GAGE: She didn't do it. There are other  
12 witnesses I presume she may ask about this, but that was —  
13 that is not Google's problem.

14 MS. GREENE: Alternatively —

15 MR. GAGE: I was very careful in narrowing the scope I  
16 asked about. She can ask about the two things I discussed.

17 MS. GREENE: Alternatively, there are two other  
18 witnesses who could testify that Mr. Shaukat had been given  
19 notice of this, one being Mr. Breslow and one being Ms. Rowe.  
20 So we could ask them, but it would make sense to ask  
21 Mr. Shaukat while he's here on the stand.

22 MR. GAGE: No, it doesn't. Ms. Rowe can come back on  
23 rebuttal if she wants. That's the way trials work.

24 MS. GREENE: Yeah.

25 THE COURT: Yes.

NACHRow4

Shaukat - Recross

1 MR. GAGE: OK.

2 THE COURT: Wait. Who was the other person?

3 MS. GREENE: Mr. Breslow.

4 THE COURT: Yes, we're going to move on now.

5 Mr. Shaukat is finished.

6 MS. GREENE: OK.

7 (Continued on next page)

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

NACHRow4

1 (In open court; jurors present)

2 THE COURT: All right.

3 MR. GAGE: May Mr. Shaukat leave?

4 THE COURT: Yes, he may.

5 Mr. Shaukat, you're excused.

6 THE WITNESS: Thank you, your Honor.

7 (Witness excused)

8 THE COURT: Now, because there was a longer break this  
9 morning, we were thinking about going until 1:00 before  
10 breaking for lunch. But does that make sense? It's now almost  
11 quarter of 1:00.

12 MR. GAGE: I would suggest breaking for lunch now,  
13 letting the jury go to quarter after, or whatever.

14 THE COURT: I think we need — because I need to talk  
15 to you all, I think we need a bit of a longer lunch break  
16 today.

17 So it is now 12:43. We will be back in here at 1:30.  
18 I would remind you: Please keep an open mind. Do not talk to  
19 each other about the case. Do not talk to anybody else about  
20 the case. Do not do any research into the case. And please  
21 steer clear of the public restrooms and avail yourselves of the  
22 facilities in the jury room. I hope you have a good lunch.

23 Thank you.

24 (Jury excused)

25 (Continued on next page)



NACHRow4

1 (Jury not present)

2 THE COURT: All right. You may be seated. I just  
3 have a few questions for you about pending issues.

4 So first about Ms. Florissi. The New York equal pay  
5 claim and in the second amended complaint is quite broad. For  
6 the sake of argument, if the jury found that Ms. Rowe was not  
7 paid less for equal work in the years 2017 through when she  
8 began reporting to Ms. Florissi, could it then find that  
9 Ms. Rowe was paid less for equal work in the last year?

10 MR. GAGE: If you're asking hypothetically, your  
11 Honor, could the jury make those distinctions and say yes in  
12 one year, no in another year? I suppose they could. I don't  
13 think the evidence will show that, but I suppose they could  
14 because she is seeking damages for that entire period of time.  
15 And so it is her burden, Ms. Rowe's burden, to prove that  
16 during this period of time, up until the end of the period of  
17 time for which her expert is calculating damages, she needs to  
18 prove that she was doing equal work to men who were paid more.

19 THE COURT: So, Ms. Greene, you want me to state the  
20 proposition again?

21 MS. GREENE: I can read it here, your Honor.

22 That's just a fundamental misunderstanding of the law.  
23 Ms. Rowe has pointed to two comparators for the purposes of the  
24 New York equal pay law: Nick Harteau and Stuart Breslow. The  
25 question is whether she was performing substantially similar

NACHRow4

1 work to them and being paid less for that. Once she  
2 establishes that, so long as she remains in that role, the  
3 damages accrue.

4 It's not about looking at other people. That's why  
5 the law recognizes that there's an equal pay law claim where a  
6 predecessor was performing the same role for more money. The  
7 fact that Google now brought in other people and otherwise does  
8 not change the fact that Ms. Rowe was paid less than  
9 Mr. Harteau and Mr. Breslow, and that is a continuing  
10 disadvantage to her and continuing damages.

11 So her comparison to anybody other than Mr. Breslow  
12 and Mr. Harteau is completely irrelevant and has nothing to do  
13 with the assessment of damages. That's just the law.

14 THE COURT: All right. Well, you responded to  
15 Mr. Gage, but I'm not sure that you answered my question. If  
16 the jury found that Ms. Rowe was not paid less for equal work,  
17 not paid less for equal work, from 2017 through when she began  
18 reporting to Ms. Florissi in April 2022, I believe, could the  
19 jury then find that Ms. Rowe was paid less for equal work in  
20 the last year?

21 MS. GREENE: Respectfully, those aren't claims we've  
22 asserted, so it's not something we've asked the jury. It's not  
23 something we've alleged in our complaint. It's not in the jury  
24 instructions. It's not in the verdict form. So, again, our  
25 claim is one that's predicated on Mr. Harteau and Mr. Breslow.

NACHRow4

1 If the jury finds that she's not performing equal work and not  
2 entitled to equal pay, the claim no longer exists.

3 THE COURT: Mr. Gage.

4 MR. GAGE: Needless to say, I completely disagree with  
5 Ms. Greene's characterization of the law.

6 Let me explain it this way: Ms. Rowe is claiming that  
7 her comparators were doing, let's call it, X, Y, and Z, and  
8 she's claiming she was doing X, Y, and Z. She needs to prove  
9 that she was doing X, Y, and Z for the entire period that she's  
10 claiming damages, because let's assume, for example, that  
11 Mr. Harteau and Mr. Breslow were doing X, Y, and Z and she  
12 proves in 2017 and 2018 she was doing X, Y, and Z, but she  
13 doesn't prove in 2019, 2020, 2021, '22, '23. If all the jury  
14 sees is she did X, she is absolutely not entitled to damages  
15 under any statute I'm aware of. It is her burden to prove, for  
16 the entire period for which she's seeking damages under  
17 New York's fair pay law, that she was doing substantially  
18 equal, not substantially similar, substantially equal work to  
19 her comparators.

20 THE COURT: All right. I think this goes to the next  
21 question I was going to ask which relates to Section 198 of the  
22 New York Labor Law. It permits an employee to recover the full  
23 amount of any underpayment, all reasonable attorney's fees,  
24 prejudgment interest, plus the potential for liquidated  
25 damages. If Ms. Rowe prevails, isn't it for the jury to decide

NACHRow4

1 how much she was underpaid by each year? Doesn't the jury need  
2 Ms. Florissi's testimony to assess that for the past year?

3 MR. GAGE: Absolutely. And it relates to Google's  
4 defense to the fair pay claim, which is that even if she can  
5 prove that she was continuously doing X, Y, and Z in my  
6 hypothetical, that Google had reasons other than gender, bona  
7 fide reasons other than gender, for paying her differently.  
8 And there's already been ample evidence of that, and there will  
9 be more, including from Ms. Florissi.

10 MS. GREENE: Your Honor, Ms. Florissi is not the  
11 proper person to whom to bring in Ms. Rowe's compensation,  
12 which is the only thing that is relevant with respect to 2022  
13 and 2023. Nondiscriminatory reasons are not a defense under  
14 the New York equal pay law. There are very narrow and very  
15 explicit defenses. It has to be job related, it has to be paid  
16 on business necessity, and it has to be a bona fide need. They  
17 do not have a production-based system. They do not have a  
18 performance-based system as the law defines that. They do not  
19 have a tenure system, a seniority-based system. So they only  
20 can rely on that fourth affirmative defense which requires a  
21 bona fide nondiscriminatory reason that's job related and  
22 consistent with business necessity. So, you know, that's the  
23 defense.

24 And, your Honor, yesterday in Ms. Rowe's — or  
25 Mr. Gage's opening, he made a factually inaccurate statement of

NACHRow4

1 the law to the jury when he said the law doesn't require equal  
2 pay, it only requires equal opportunity. That's not the case.  
3 The law requires equal opportunity — I'm sorry, equal pay when  
4 it's established that two people in two different categories  
5 that are protected by the law are being paid differently for  
6 substantially similar work. How Ms. Rowe is performing as  
7 compared to Level 9s or Level 8s in 2023 is not relevant to  
8 whether Ms. Rowe is still performing the same job that she was  
9 performing back in 2017, in 2018 when the pay disparity  
10 manifested.

11 THE COURT: All right. At this point Ms. Florissi, if  
12 she comes, would not be coming tomorrow, right?

13 MS. GREENE: That's correct.

14 MR. GAGE: I assume plaintiff's case will still be  
15 continuing, your Honor.

16 But just to make the record clear, Ms. Florissi is not  
17 — we do not intend to call her to testify about Ms. Rowe's  
18 compensation. We are calling her to testify about what  
19 Ms. Rowe has been doing during the time that Ms. Florissi has  
20 supervised her. It will be a continuation of testimony that  
21 plaintiff's counsel has not disputed that Mr. Grannis is going  
22 to give about the things that Ms. Rowe has been doing. And  
23 we've heard her testify about what she's been doing, and he's  
24 also going to testify about things she hasn't been doing. And  
25 Ms. Florissi is just going to pick up as of that point when she

NACHRow4

1 took over, which is a continuing period for which the plaintiff  
2 is seeking damages.

3 Second, the defense under the fair pay law absolutely  
4 contemplates this. It absolutely contemplates this. And this  
5 testimony from Ms. Florissi and Mr. Grannis will absolutely  
6 demonstrate the bona fide non-gender-related reasons that we  
7 will be able to argue to the jury are absolutely consistent  
8 with business necessity given what the Office of the Chief  
9 Technology Officer at Google Cloud does. And Ms. Rowe has not  
10 been doing part of her job for a long time, and counsel just  
11 doesn't want the jury to hear that.

12 THE COURT: All right. I'm going to move on now to  
13 the Bennett issue.

14 So a court in evaluating a plaintiff's case of  
15 discrimination may consider evidence of discrimination faced by  
16 other employees at the company. But that evidence of other  
17 employees' discrimination typically, if not always, comes in  
18 through those other employees' testimony; through the testimony  
19 of relevant personnel, such as HR and those directly  
20 responsible for hiring, promotion, and other such decisions;  
21 and other individuals who are specially situated to speak to  
22 those other employees' circumstances.

23 Do you have any authority in which the court allowed  
24 the plaintiff's own testimony to come in regarding those other  
25 employees' discrimination in order to support the

NACHRow4

1 plaintiff's discrimination claim?

2 MS. GREENE: Your Honor, I've not looked into that for  
3 the reason that what we've offered is not with respect to  
4 discrimination Ms. Bennett has experience. Ultimately, I think  
5 the jury will be able to draw that inference. Her limited  
6 testimony is about when she found out Ms. Bennett was a Level 7  
7 and the circumstances surrounding that. Other witnesses, I  
8 think you noted those responsible for hiring, promotion, and  
9 other such decisions, are going to be asked about Ms. Bennett  
10 and will be able to give testimony around Ms. Bennett's  
11 treatment. Other observers, other witnesses to Ms. Bennett's  
12 testimony will be able to give treatment. We're not asking for  
13 Ms. Rowe to be able to testify that Jenn Bennett was  
14 discriminated against.

15 THE COURT: So why — I know, Mr. Gage, just a moment.  
16 We have to resolve the extent to which other witnesses are  
17 going to be questioned about Bennett, but to the extent other  
18 witnesses are questioned about her, why do you need that from  
19 Ms. Rowe?

20 MS. GREENE: Because it goes, your Honor, to  
21 Ms. Rowe's understanding about what the leveling picture looked  
22 like in OCTO. There were five men at Level 9. There were two  
23 women in that group. One was an 8, one was a 7. It was  
24 relevant to the assessment of, hmm, maybe gender has something  
25 to do with this, and that's important testimony. We've not

NACHRow4

1 been able to touch that testimony yet because of awaiting, you  
2 know, the Court's decision on Jenn Bennett.

3 But it motivated Ms. Rowe in terms of her belief that  
4 gender was a part of this, and that's — and what the  
5 composition was of the group. It's as straightforward as that.  
6 And, again, we don't need to state specifically what  
7 Ms. Bennett said to Ms. Rowe. You know, that's the hearsay  
8 concern that there was. We're happy to take that out. But,  
9 again, in the context of an offer of proof, it's our offer of  
10 proof as to what the circumstances would be and what  
11 Ms. Bennett said and what Ms. Rowe understood as of that time.

12 THE COURT: All right. Mr. Gage.

13 MR. GAGE: And I must confess, your Honor, I don't  
14 remember specifically — we're looking at the transcript right  
15 now — but I don't recall counsel ever making this proffer  
16 before Ms. Rowe got off the stand. Ms. Rowe is off the stand.  
17 And so as trials work, if she puts on a rebuttal case, she can  
18 only respond to evidence that Google presents in its case. So  
19 that's one issue.

20 Second issue is because Ms. Rowe's now off the stand,  
21 we're really only talking about whether or not counsel can ask  
22 other witnesses that she's calling about Jenn Bennett's  
23 circumstances, and they clearly cannot offer any testimony  
24 about what was in Ms. Rowe's head at any point in time, to the  
25 extent that that's even relevant.



NACHRow4

1 THE COURT: I don't think that's what Ms. Greene is  
2 intending or hoping to do with the other witnesses, but go  
3 ahead.

4 MR. GAGE: But that's what I'm unsure of, your Honor.  
5 Since Ms. Rowe is already off the stand and can't talk about  
6 the effect that that email had on her, the listener, so now  
7 we're talking about some other purpose. And so counsel says  
8 she's not offering it for the truth of the matter, and so now  
9 I'm completely confused about what counsel is intending to do  
10 with this exhibit that relates to Jenn Bennett with any of the  
11 other witnesses that are called.

12 THE COURT: All right. Ms. Greene, why don't you tell  
13 us.

14 MS. GREENE: I'm not sure what the reference was to  
15 the exhibit you were talking about, Mr. Gage.

16 MR. GAGE: Reference to what?

17 MS. GREENE: The exhibit that you're referencing.

18 MR. GAGE: I thought we were talking about a document  
19 that relates to a conversation that Ms. Rowe had with  
20 Ms. Bennett and learning about —

21 THE COURT: We're talking about the offer of proof.

22 MS. GREENE: Correct.

23 THE COURT: Which you referenced.

24 MS. GREENE: We have not waived because we brought the  
25 issue up, and you were reserving judgment.

NACHRow4

1 MR. GAGE: I guess, your Honor, I'm unclear what we're  
2 talking about, then.

3 MS. GREENE: We presented the offer of proof at the  
4 appropriate time, and the Court was reserving judgment on that  
5 issue, and so that's where we are at this moment in time.  
6 We're not seeking to show Ms. Rowe any document and bring her  
7 up. We've offered an offer of proof in response to your  
8 Honor's judgment on that issue.

9 THE COURT: Was this raised for the first time  
10 yesterday morning, yesterday morning before we brought the jury  
11 in?

12 MS. GREENE: Your Honor, the days have run together.  
13 I would have to look back at the transcript.

14 THE COURT: So you're representing that she was still  
15 on the stand when this came up?

16 MS. GREENE: Yes, your Honor.

17 MR. GAGE: OK. My apologies for that, your Honor.

18 THE COURT: That's OK.

19 MS. GREENE: That's why we offered an offer of proof,  
20 because she was not permitted to testify as to that issue.

21 MR. GAGE: I'm just unclear on what it is specifically  
22 counsel wants to introduce into evidence. Is it something  
23 about Jenn Bennett's leveling, the underlying decision, or is  
24 it something different? I'm unclear on that.

25 MS. GREENE: We've made an offer of proof.

NACHRow4

1 MR. GAGE: I apologize. I don't have it in front of  
2 me. Can you just tell me what it is.

3 THE COURT: You know what, actually, you were going to  
4 modify it anyway, Ms. Greene.

5 MS. GREENE: Right.

6 THE COURT: So why don't you do that so we can all see  
7 where this currently stands.

8 And then I think the other issue is that Ms. Greene is  
9 hoping to ask other witnesses about Jenn Bennett, correct?

10 MS. GREENE: Yes, your Honor.

11 MR. GAGE: So I assume, but I just don't —

12 THE COURT: But I don't think — all right. Rather  
13 than speculate, I'm going to ask Ms. Greene to tell us what she  
14 intends to question these other witnesses on relating to  
15 Ms. Bennett.

16 MS. GREENE: Your Honor, Ms. Bennett's leveling  
17 packet, which relates to the testimony of Will Grannis and  
18 Brian Stevens, who is a defense witness, who were the two  
19 people involved in that leveling decision, there are things  
20 said in that document and about her hiring that are indicia of  
21 bias, bias by the decision-makers. That is relevant and  
22 probative to Ms. Rowe's establishing bias.

23 There are — there's testimony from other witnesses  
24 about their understanding and belief that Ms. Bennett was at  
25 least a Level 8, if not higher. And, again, it wasn't

NACHRow4

1 transparent. Nobody knew their roles. But they believed her  
2 to be performing that role.

3 There's reference in the investigative notes about  
4 Ms. Bennett and the leveling decision relating to Ms. Bennett.  
5 It's all over. The fact that defense hasn't picked up on it in  
6 the documents and the testimony of these witnesses, it's still  
7 there, and it is — it is powerful evidence that there was a  
8 double standard that decision-makers applied with respect to  
9 men and women.

10 MR. GAGE: Your Honor, I am familiar with the  
11 exhibits. I know and it has always been an issue in the case,  
12 which is why we're arguing it right now.

13 Clearly, Ms. Greene wants to litigate Google's  
14 decision to level Jenn Bennett. It's a different decision, and  
15 there's nothing about that document that suggests bias.  
16 Ms. Bennett was a manager-level employee at GE at the time she  
17 came in, and they made a thoughtful decision about how to level  
18 her. And counsel is just trying to distract from the central  
19 issues in this case, which are the leveling decisions of  
20 Ms. Rowe. And it is not relevant, and to the extent that it  
21 has any relevance, it's unduly prejudicial and confusing for  
22 the jury to put Google in a position of now having to go down a  
23 rabbit hole of explaining yet another leveling decision and  
24 taking more time in the course of this trial. She was leveled  
25 for perfectly legitimate nondiscriminatory reasons.

NACHRow4

1 THE COURT: All right. Ms. Greene, can we get that  
2 list of all witnesses where this issue is arising and any  
3 documents relating to Ms. Bennett. I'm sure it's all in the  
4 joint pretrial order, but if you could highlight for me any  
5 documents that are in dispute where Ms. Bennett is raised.

6 Mr. Gage, are you saying that discrimination against  
7 other employees, alleged discrimination, cannot be considered  
8 as part of this case?

9 MR. GAGE: There is no alleged discrimination —

10 THE COURT: Well, she's trying to ask about —  
11 Ms. Greene is trying to ask about the leveling decision on  
12 Ms. Bennett because she suspects that — or she's trying to  
13 show that discrimination was involved in setting her at a  
14 Level 7.

15 MR. GAGE: I don't think — I don't think it's  
16 relevant, your Honor, and I think there's plenty of case law.  
17 As I said earlier, there is case law that stands for the  
18 general proposition that "me too" type of evidence may be  
19 admissible. It may be admissible. But there isn't a  
20 sufficient connection here. There's never any suggestion by  
21 anyone, except Ms. Rowe's counsel, that there was something  
22 wrong with Ms. Bennett's leveling, not to mention, your Honor,  
23 the plaintiff in this case has consistently taken the position  
24 that the only comparators the jury should hear about are the  
25 five Level 9s.

NACHRow4

1 Plaintiff's counsel has consistently opposed Google's  
2 efforts to show people who were similarly situated to her, the  
3 Level 8s. Counsel is, even I suspect, going to suggest there  
4 should be a limiting instruction about that, that, oh, you  
5 can't consider it for — because counsel thinks it should all  
6 be about the 9s, and then they want to say, selectively, we  
7 want to also do this too. It goes down another rabbit hole and  
8 unnecessarily continues the case on something that's not  
9 probative of the reasons why Ms. Rowe was Level 8.

10 THE COURT: So, wait, there was no motion practice on  
11 this, no motion *in limine*?

12 MS. GREENE: There was not. Your Honor, I want to  
13 just point you to one exhibit —

14 THE COURT: Yes.

15 MS. GREENE: — that I think is just an example of the  
16 probative value of this testimony. This is Plaintiff's  
17 Exhibit 17, and it's from Will Grannis to Melissa Lawrence, the  
18 HR head. Mr. Grannis, of course, being the hiring manager, he  
19 says —

20 THE COURT: Wait just a moment. I'm going to try to  
21 read it with you. 17?

22 MS. GREENE: Yes.

23 MS. TOMEZSKO: May I approach, your Honor?

24 THE COURT: Thank you. You know what, I've now taken  
25 so much of your stuff, Ms. Tomezsko, that I'm OK. I'm just

NACHRow4

1 going to look at it in a binder.

2 MS. TOMEZSKO: We have lots of copies. I don't mind.

3 THE COURT: It's OK. I've got it.

4 MS. GREENE: We could also put it on the screen, your  
5 Honor.

6 THE COURT: You can do that. Thank you.

7 MS. TOMEZSKO: Trying to be helpful.

8 THE COURT: Appreciate it. I have your — this motion  
9 *in limine* decision to give back to you —

10 MS. TOMEZSKO: Thank you.

11 THE COURT: — when we actually break for lunch.

12 MS. GREENE: As you can see, this is an email from  
13 Will Grannis to Melissa Lawrence and he says: "I agree. I  
14 also know that every woman who came to Google/OCTO (Jen" —  
15 being Jenn Bennett — "Ulku) has told me that they feel like  
16 they didn't fight hard enough for themselves. So I'm torn."

17 Then he goes back and says: "This is also the  
18 number one area where women ask for my advice/mentoring,  
19 respectfully fighting for what they think is fair comp."

20 This is the hiring manager grouping Ms. Rowe and Jenn  
21 Bennett together about their feelings like they didn't fight  
22 hard enough for themselves when they came in the door. This is  
23 just one document among many that is relevant and shows that  
24 there was a difference with respect to the women that  
25 Mr. Grannis was acknowledging, sentiments that Mr. Grannis was

NACHRow4

1 acknowledging.

2           There are other documents that really speak and show  
3 to the circumstances around Ms. Bennett's de-leveling. She was  
4 actually interviewed for an 8/9 position, and they brought her  
5 in as a Level 7. There's lots of documents about it. We'd  
6 like to be able to test it, question the hiring managers about  
7 it, because it was a significant change, and it's outside of  
8 Google's practices to de-level someone like that. It's  
9 mentioned in the ER notes as an example.

10           This is — again, this is probative testimony as to  
11 whether Google was applying a double standard to the people it  
12 was interviewing and hiring for that director-level role.

13           MR. GAGE: Your Honor, a few responses.

14           THE COURT: So this exhibit is one of the ones in  
15 dispute because of the references to Bennett, is that right?

16           MR. GAGE: Yes.

17           THE COURT: OK.

18           MR. GAGE: For a number of reasons here, but I'll  
19 touch on a big one here. First of all, this is hearsay. This  
20 is hearsay. This is Mr. Grannis writing about what other  
21 people have told him. And second of all, there is absolutely  
22 nothing in this document that suggests that Google ever did  
23 anything wrong. He's speaking to what someone else told him  
24 that they thought about their own actions. That's what this is  
25 saying.



NACHRow4

1           And Mr. Grannis, you'll see him testify. He is an  
2   incredibly supportive manager/mentor and he coaches people, so  
3   on, so forth. This does not speak to any suggestion of  
4   discrimination, and it's plainly hearsay. The jury shouldn't  
5   hear that other women thought they should have fought harder  
6   for compensation. That's totally irrelevant and highly  
7   prejudicial to Google's position here.

8           And second, your Honor, I want to go back to my point  
9   about opposing counsel's continuing objections. Judge  
10   Schofield ruled that we can introduce evidence about the  
11   credentials of Ms. Rowe's Level 8 peers, yet counsel persists  
12   in their objections. And I'm assuming I'm going to have to go  
13   for a sidebar every time I want to ask a witness about the  
14   credentials of Level 8s who were hired around the same time as  
15   Ms. Rowe. Yet they want to go down this rabbit hole which will  
16   invite us to then also present testimony from our witnesses  
17   about men whom Google considered for an 8 and then decided to  
18   make a 7 or whom Google decided — considered they should be a  
19   7 and made them a 6 because Google wanted to set reasonable and  
20   fair expectations for these folks based upon what Google  
21   expected they could do.

22           And so "de-leveling" is counsel's term. There was no  
23   de-leveling here. And this is a complete sideshow that would  
24   simply allow plaintiff's counsel to just say, well, there's a  
25   woman over there, there's a woman over there, and they're

NACHRow4

1 different, and that's not what this case is about. It has  
2 nothing to do with the leveling decision about Ms. Rowe which  
3 focused on her qualifications relative to others who were hired  
4 around the same time.

5 (Continued on next page)

NACVROW5

1 THE COURT: Okay. So, Ms. Greene, you referred to  
2 Ms. Bennett and Ms. Rowe as similarly situated. How is that  
3 defined in the case law? How do courts evaluate that? Does it  
4 have to do with role, seniority, compensation, something else?

5 MS. GREENE: With respect to the evidence of other  
6 women supporting an inference of bias, it really looks to the  
7 decision-maker, right. Are these other women in the same group  
8 who are subject to the same decision-makers?

9 Mr. Gage confuses two issues. One is with respect to  
10 who Ms. Rowe is comparing herself to for purposes of the equal  
11 pay law. This is discrimination, this is evidence of  
12 discrimination to support an inference of bias for her  
13 discrimination claim. I think that Ms. Burdis, in the ER  
14 notes, where she is asked about gender's role in leveling  
15 points to Jen Bennett and says another female in that group --

16 THE COURT: I'm sorry, which document is this?

17 MS. GREENE: This is 57. It's one of the documents we  
18 looked at earlier today. And we can put that up, as well.

19 And if we can go to the second page, and if we can  
20 look to -- I'm sorry, the third page. And if we can look to  
21 the second bullet from the bottom, it says: Another female in  
22 that group was Jen Bennett and also got down-leveled -- I'm  
23 sorry, it wasn't de-leveled, it was down-leveled -- because she  
24 just didn't have the level of experience the others has and it  
25 was very obvious.

NACVROW5

1 Well, you can look at the gHire packet and see what  
2 her levels of experience were. You can read about the decision  
3 to down-level her. You can hear and will hear from other  
4 witnesses testifying about the role that she was playing, what  
5 they thought her level was given the impact that she was having  
6 and the qualifications she brought to the role. She was  
7 down-leveled.

8 Ms. Rowe similarly came in with equal or better  
9 qualifications, similar experience, was performing in the role  
10 at the same level, and was down-leveled to an 8, as compared to  
11 the men who were brought in as 9s. It's the same fact pattern,  
12 and it supports an inference of bias because of who's involved.

13 Who gets the benefit? The men. Who gets the higher  
14 standard? The women.

15 And in a group, a small group – and this hiring cohort  
16 was 9 – the only two women were the ones that got that  
17 treatment. That is probative. That is highly probative of the  
18 existence of bias.

19 THE COURT: Mr. Gage, what is your take on similarly  
20 situated?

21 MR. GAGE: Well, I don't think Ms. Bennett is  
22 similarly situated, inasmuch as her years of experience, the  
23 nature of her experience, the level of her experience is  
24 different, less than, Ms. Rowe's, as well as significantly less  
25 than others.

NACVROW5

1 I also want to point out, your Honor, that there is no  
2 cohort. At the time Mr. Eryurek, one of the first external  
3 hire as an L9, was hired in OCTO, I believe they already about  
4 20 people on the team. So there is no cohort.

5 A cohort is the group of people around which  
6 plaintiff's counsel wants to draw a circle for purposes of  
7 presenting what they believe is the most convincing case to the  
8 jury. And so I don't think we should have to go down the  
9 rabbit hole, because we will then have to talk about other men  
10 beyond the men that plaintiff's counsel wants to talk about,  
11 beyond the Level 8 men that we already are expecting to talk  
12 about, to show that men who were similar to Ms. Bennett were  
13 similarly hired as 7s; men who had -- who had similar  
14 experience were even brought in at lower grades for other  
15 reasons.

16 And so we're going to go down this rabbit hole where  
17 the jury is going to be evaluating leveling decisions about a  
18 few dozen people, when the only leveling decision that they are  
19 supposed to be evaluating -- and your Honor, I presume -- I  
20 shouldn't presume, but I hope and expect that in the jury  
21 charge to the jury, you're going to tell them their job is not  
22 to second-guess the business judgment of Google, and the case  
23 law is well-established for that. The only leveling decision  
24 that's at issue in this case is a leveling decision about  
25 Ms. Rowe. The jury can look at evidence of her comparators,

NACVROW5

1 appropriate comparators, to decide whether or not the  
2 differences between them, these 9s and her, suggest gender  
3 bias.

4 Counsel is now saying this is not about the fair pay  
5 claim, it's about the New York City claim. Great. Ms. Bennett  
6 didn't work in New York. She worked in California. So that's  
7 yet another reason. She's not even within the cohort that is  
8 potentially at issue here. The New York pay claim only allows  
9 them to compare Ms. Rowe to Mr. Harteau, who worked in New  
10 York. Mr. Breslow worked in New York too. Ms. Bennett didn't  
11 even work in New York.

12 MS. GREENE: Your Honor, there's so much to address  
13 there.

14 THE COURT: Hang on a second, Ms. Greene.

15 Mr. Gage, did you not say at some point that it was  
16 for the jury to decide who Ms. Rowe's comparators are?

17 MR. GAGE: No. I don't believe I said it's for the  
18 jury to decide, because that -- I think your Honor in the first  
19 instance -- and that's what we're arguing here -- has to draw a  
20 circle around it so there's not just this infinite flow of  
21 potential comparators coming in here.

22 And so I don't think the jury gets to decide -- they  
23 get to decide whether or not differences between Ms. Rowe and  
24 the people about whom your Honor let's us introduce evidence,  
25 whether those differences suggest that the way she was paid and

NACVROW5

1 the way she was treated was because of her sex as opposed to  
2 those other differences. That's what the jury gets to decide.  
3 But your Honor, in the first instance, has to decide the  
4 admissibility of whose information the jury gets to see to  
5 decide whether or not those differences are indicative of  
6 discrimination.

7 THE COURT: All right. Ms. Greene.

8 And then I think we're going to break.

9 MS. GREENE: Mr. Gage is wrong; that the New York City  
10 human rights law for purposes of establishing bias allow you to  
11 look to comparators outside of the geographic range. The New  
12 York equal pay law has a geographic-specific requirement  
13 because of the nature of that law. But it is well-established  
14 that similarly situated people for purposes of showing  
15 behaviors or drawing inferences of bias don't have to be in the  
16 same office. They were working in the same group, they  
17 reported to the same manager.

18 Mr. Gage wants to make decisions of fact, find  
19 decisions of fact. The jury is going to get to decide if  
20 there's a cohort or not based on the evidence. The jury is  
21 going to decide is it this group of nine that we should be  
22 looking at or is it a broader group.

23 We lost on a motion *in limine* about whether defendant  
24 can present evidence on Level 8 comparators, Level 8s. We lost  
25 on that. They get to bring in that evidence. They are putting

NACVROW5

1 it into the record; we are maintaining our objections to it.  
2 But it's a little disingenuous to say they have to do that.  
3 They intend to do that; they intend to look at the Level 8s.

4 So to exclude Ms. Bennett from this group that we're  
5 going to be looking at, where it's in the documents and people  
6 are voluntarily mentioning her as someone else who, you know,  
7 the circumstances around her leveling were raised an issue, it  
8 was a question, notably, Ms. Bennett still works there. They  
9 could bring her in if they wanted. So there's no -- you know,  
10 if they want to bring her in as a rebuttal witness, they could.

11 But this testimony, these documents, should go before  
12 the jury. And the presumption is that relevant probative  
13 testimony will go to the jury unless there's some material  
14 prejudice and a reason to exclude it. And the fact that  
15 defendant doesn't like the evidence, the fact that they think  
16 that there's some bias it creates, the law says all evidence  
17 creates a bias, that's why it's in for the jury to determine  
18 the validity of it and to draw inferences and to give weight to  
19 it.

20 So, you know, it just -- I know that was long-winded,  
21 but this is a very important issue. And as your Honor  
22 requested, we will outline for you, you know, the documents --

23 THE COURT: Just a list. I just want to know the  
24 scope of the issue. I know you're going to tell me that this  
25 is in the joint pretrial order, and that may be. No, it isn't?



NACVROW5

1 MR. GAGE: No, I was going to say I'm not going to say  
2 that. I've said that enough.

3 THE COURT: Along with scores of other issues. This  
4 is a considerable issue to be coming up in the middle of trial,  
5 the jurors missing work and what have you.

6 How long until we run headlong into this issue?

7 MR. GAGE: Your Honor, just to be clear, they only  
8 designated those exhibits at the last minute. This is  
9 something that --

10 THE COURT: But when were they produced?

11 MR. GAGE: Oh, everything was produced in discovery.

12 MS. GREENE: 2020.

13 MR. GAGE: But we had a universe of designated  
14 exhibits back in December when we were first scheduled for  
15 trial. And then we did motions *in limine*. And then this was  
16 brought up more recently. I just wanted to make that clear.

17 And also, for the record, Google has absolutely no  
18 problem with explaining Jen Bennett's leveling. It was not  
19 discriminatory. There were perfectly good reasons. The  
20 question then becomes, then how many other people do we get to  
21 present evidence about to show not only that Ms. Rowe was  
22 fairly leveled, but also that Ms. Bennett was fairly leveled.  
23 And that I just pose as a question for your Honor to consider  
24 as you're evaluating this decision, because that's what we're  
25 talking about.

NACVROW5

1 THE COURT: Some of the same witnesses can address the  
2 leveling decisions as to both of them; is that right?

3 MR. GAGE: Some of them can. But then there may be  
4 additional documents that we want to show the jury. And it  
5 just unnecessarily prolongs the trial and confuses and  
6 distracts the jury.

7 MS. GREENE: Your Honor, every document, with the  
8 exception of one, has been on the list from the first joint  
9 pretrial order. Every witness who will testify, whose  
10 depositions were taken, have been on the list since the joint  
11 pretrial order.

12 There is one document that was inadvertently missed on  
13 the joint pretrial order, and it's Jen Bennett's gHire packet.  
14 All of the other gHire packets for the L8s and L9s and people  
15 hired during that time period were put in mostly by defendant  
16 into the record. Jen Bennett's wasn't. We rectified that.

17 THE COURT: When did you rectify that?

18 MR. GAGE: On the eve of trial, your Honor.

19 THE COURT: Okay. Well, that's a big one to omit from  
20 the joint pretrial order until the eve of trial.

21 MR. GAGE: It's a huge one.

22 THE COURT: That's why we're here doing this now, I  
23 think.

24 MS. GREENE: Your Honor?

25 THE COURT: Yes.

NACVROW5

1 MS. GREENE: That document was overlooked, but that  
2 document doesn't determine the testimony. Even without that  
3 document, we could question Mr. Will Grannis and Mr. Brian  
4 Stevens as to the issues and the circumstances around it.  
5 Again, other people in their deposition, in the ER notes,  
6 Mr. Grannis in his email communications have raised  
7 Ms. Bennett. They've long been on notice. They could have  
8 moved *in limine* to exclude any conversation around Ms. Bennett,  
9 the other woman in the group. And they didn't.

10 THE COURT: All right.

11 MR. GAGE: Was of the nature of this document, your  
12 Honor, P-17, Mr. Grannis's email, the one that's hearsay, where  
13 he's talking about what someone else told him about their  
14 feelings, it was not. These documents, we're not suggesting,  
15 that they were trying to relitigate the leveling decision for  
16 Ms. Jen Bennett. They offered that exhibit, her hiring packet,  
17 at the last minute, long after we had not only designated all  
18 of our witnesses, but also arranged all the travel that we've  
19 had to arrange for people to come to this trial.

20 This will be -- we'll be severely prejudiced if we  
21 have to litigate that issue and identify all these other  
22 comparators. Now we've got to find comparators for Jen  
23 Bennett, people who were hired at a 7, like her. We'll find  
24 them if we have to, but it's just going to unnecessarily  
25 prolong the trial.

NACVROW5

1 THE COURT: All right.

2 MS. GREENE: I just wanted to make clear that the  
3 Plaintiff's Exhibit 17 is not just about what they told her.  
4 It is in the context of a conversation of another woman who was  
5 trying to negotiate her salary and who was running up against  
6 obstacles.

7 MR. GAGE: No.

8 MS. GREENE: Melissa Lawrence was saying, I don't want  
9 to be a Debbie-downer, but it concerns me. There's much of a  
10 disconnect and focus on comp. You know this. In the end, they  
11 need to come for the opportunity, not the comp.

12 And Mr. Grannis's response is: I agree. But I also  
13 know that every woman has told me they didn't fight hard enough  
14 for themselves. And they ask for my advice.

15 It's in the context of questions around how women who  
16 are trying to negotiate for themselves are treated on their way  
17 in.

18 THE COURT: You're referring to Katia now?

19 MR. GAGE: Yes, your Honor.

20 THE COURT: You're not doing anything with Katia,  
21 right?

22 MR. GAGE: Well, that's what they are suggesting they  
23 want to, your Honor.

24 MS. GREENE: No, your Honor.

25 MR. GAGE: That's yet another one.

NACVROW5

1 MS. GREENE: No, we are not.

2 MR. GAGE: But to that point, your Honor, Katia Walsh  
3 in that email shows very clearly, was being brought in -- or  
4 offered a Level 9 job. She was offered a very generous package  
5 of compensation, which she negotiated, google responded, they  
6 put more money on the table. But in the end, she decided to  
7 reject the offer.

8 THE COURT: I'm sorry, we are talking -- wait a  
9 minute.

10 MR. GAGE: This is Katia Walsh. I'm not even  
11 suggesting we want to go down that rabbit hole.

12 MS. GREENE: We're not.

13 MR. GAGE: I just want to be clear. So counsel is  
14 abandoning any effort to offer the evidence regarding Katia  
15 Walsh? Because if that's the case, I'll shut up and sit down.

16 MS. GREENE: I've made clear the document that we are  
17 offering and for what purpose we are offering it, your Honor.  
18 I will provide you with a list. Again, these are decisions --

19 THE COURT: Witnesses and documents.

20 MS. GREENE: Witnesses and documents.

21 These are the things for the jury to decide, what  
22 these documents mean, what this testimony means, whether  
23 there's any value at all in how one person was treated versus  
24 another. These are all questions of facts. That's for the  
25 jury to decide. This is relevant and probative. It's not

NACVROW5

1 being offered in a way that excludes it under the Federal Rules  
2 of Evidence. And again, the fact that they don't like it isn't  
3 reason to keep it out.

4 But I will say no more and I will provide you with the  
5 list.

6 THE COURT: All right. Thank you.

7 MR. GAGE: Hearsay in these documents, it's --  
8 anyways.

9 THE COURT: When was the last time this group talked  
10 about settlement?

11 MS. GREENE: Your Honor, we mediated or had a  
12 settlement conference before Judge Willis in March. And that  
13 was the last formal settlement discussions. And any informal  
14 discussions since that point in time have gone nowhere.

15 THE COURT: All right. Settlement should be  
16 contemplated often is my view.

17 All right. I'll see you at 1:45.

18 (Luncheon recess)

19 (Continued on next page)  
20  
21  
22  
23  
24  
25

NACVROW5

## A F T E R N O O N   S E S S I O N

2:00 P.M.,

THE COURT: Ms. Williams, let's bring the jury right in.

MS. GREENE: Should we bring in the next witness, your Honor?

THE COURT: Who is it?

MS. GREENE: Kevin Lucas.

We had to make some adjustments to the planned schedule to fit in people's travel plans.

THE COURT: Meaning you were planning to call someone else next?

MS. GREENE: Meaning I think this is different than the order we may have indicated to you earlier today.

THE COURT: Okay.

MR. GAGE: We're just juggling schedules and counsel are cooperating to get people --

MS. GREENE: Where they need to be and when.

MR. GAGE: Where to be and when.

(Jury present)

THE COURT: All right. Are you ready to call your next witness, Ms. Greene?

MS. GREENE: Yes.

Plaintiff calls Kevin Lucas, please.

NACVROW5

Lucas - Direct

1 KEVIN LUCAS,

2 called as a witness by the Plaintiff,

3 having been duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MS. GREENE:

6 Q. Good afternoon, Mr. Lucas.

7 A. Hi.

8 Q. I'm over here. I'll be the one asking you the questions.

9 A. Thank you.

10 Q. You were Mr. Shaukat's HR manager in 2018; correct?

11 A. That is correct.

12 Q. And you were deposed in connection with this lawsuit;  
13 correct?

14 A. Correct.

15 Q. And you were designated as a corporate witness to testify  
16 on Google's behalf, do you recall that?

17 A. Correct.

18 Q. And that means when you answered, you were answering on  
19 behalf of the company with respect to the subject areas for  
20 which you had been designated; correct?

21 A. Correct.

22 Q. Now, in the context of that deposition, you gave testimony  
23 regarding the difference between an individual contributor and  
24 a people manager, as those terms are used by Google; correct?

25 A. Correct.



NACVROW5

Lucas - Direct

1 Q. Okay. Let's play into the record your testimony on this  
2 subject.

3 MS. GREENE: And it's, Vincent, Mr. Yang, line 122, 19  
4 through 124, 6.

5 (Video played)

6 MS. GREENE: Thank you, Mr. Yang.

7 Q. And with respect to leveling guides for technical directors  
8 in the office of the CTO, I also want to play your testimony  
9 into the record on that. And that is 126, line 18, through  
10 127, line 16.

11 (Video played)

12 MS. GREENE: I think it's frozen.

13 Okay. We'll stop there.

14 Q. Do you remember giving testimony about whether number of  
15 years was a factor that was used to determine level for the  
16 technical solutions consultant director in OCTO?

17 A. Yes, I believe we spoke about that in my deposition.

18 Q. And you said that no, you didn't have any knowledge that  
19 the number of years was a factor that was used to determine  
20 level for the technical solutions consultant directors in OCTO;  
21 correct?

22 A. As a decision, no.

23 Q. Just for the clarity of the record, when we're talking  
24 about technical solutions consultant directors in OCTO, it's  
25 also referred to as technical directors; correct?

NACVROW5

Lucas - Direct

1 A. That is -- it's a common public-facing job title, yes. But  
2 from an HR systems perspective, it is not.

3 Q. Right. So the job ladder for those in OCTO are the  
4 technical solutions consultants; correct? That's the ladder?

5 A. I believe that is -- most of the people in that  
6 organization are on the TSC ladder.

7 Q. Okay. So the testimony you just gave about the technical  
8 directors in OCTO, also technical solutions directors, those  
9 are the same thing; correct?

10 A. Yes, one's a public-facing title, one's kind of an HR  
11 systems.

12 Q. Okay. Mr. Lucas, on approximately August 28th, 2018, you  
13 received a written complaint from Ms. Rowe; correct?

14 A. I believe so, yeah.

15 Q. And that was addressed to both you and Ms. Lawrence; is  
16 that right?

17 A. If I remember correctly, I think it was addressed to  
18 Ms. Lawrence and I was kind of maybe a cc or just like an FYI.

19 Q. Let's actually take a look at it. We're going to go to  
20 Plaintiff's 43.

21 MS. GREENE: And if we can turn to the second page on  
22 this document, please.

23 Q. Do you recognize this as Ms. Rowe's complaint on August  
24 28th, 2018?

25 A. I do.

NACVROW5

Lucas - Direct

1 Q. And you are a plus Kevin, is that you?

2 A. Yes, plus me.

3 Q. And Ms. Rowe was raising a concern with being leveled at  
4 Level 8 and later learning that her male peers were all hired  
5 at Level 9; correct?

6 A. That's how she outlined it in the note, yes.

7 Q. Okay. Let's turn to the first page on this document and  
8 start at the bottom email at 4:49 p.m.

9 Ms. Lawrence wrote to you: Hey, I don't know of any  
10 way to address this. It is true that some of the OCTO folks  
11 were hired in as L9, but they had much more experience than she  
12 did. When I talked to Will, he was unequivocal that we hired  
13 her in the right level.

14 Do you see that?

15 A. I do.

16 MS. GREENE: And if you can take that down.

17 Q. Then you asked if she could send you the thread confirming  
18 the levels, right?

19 A. Yes.

20 Q. Okay. Let's look at the next email, the 7:42 p.m. email.

21 So you say: I pulled TSC L8/9 hires in OCTO since  
22 2016, and then pulled approximate years of experience and  
23 education from gHire. Data is here. Do you see that?

24 A. Yes, I do.

25 Q. So explain to me what you did as you've described it here.

NACVROW5

Lucas - Direct

1 A. So we have an internal reporting tool that you can identify  
2 people who were hired into a specific organization or reporting  
3 hierarchy within a specific time stamp, if you will. And you  
4 can narrow that down by job family, in this example, TSC Level  
5 8 and 9. So that's what I did.

6 So I pulled the short list of people who fulfilled  
7 those kind of attributes and then migrated over to gHire, which  
8 is our internal applicant tracking system whereby we process  
9 all hiring and transfers across Google, and went person by  
10 person to loosely see the significance of the complaint.

11 Q. Okay. You worked in HR, not ER; correct?

12 A. Correct.

13 Q. So your job did not entail undertaking investigations into  
14 complaints; correct?

15 A. That is correct.

16 Q. Did you ask anyone before you did this data analysis if  
17 years of experience and education were something that had been  
18 considered in leveling at the time the leveling decisions were  
19 made?

20 A. I don't recall specifically asking anyone.

21 Q. Did you do anything to look at whether years of experience  
22 and education were factors that were used at the time the  
23 leveling decisions were made?

24 A. No, I generally went on what I had seen to be true in my  
25 experience at Google.

NACVROW5

Lucas - Direct

1 Q. And, in fact, your prior testimony was that you have no  
2 knowledge that number of years was a factor used to determine  
3 level for the technical directors in OCTO; correct?

4 A. I don't recall that testimony; but if you're reading it, my  
5 assumption is it's true.

6 Q. Well, sitting here today, do you know if that's true, that  
7 number of years was not a factor that was considered in  
8 leveling in OCTO?

9 A. I can't speak specifically to OCTO. So when I step back  
10 about our hiring process more broadly, years of experience is  
11 an input that forms an initial level recommendation that  
12 ultimately is a decision. It just determines essentially the  
13 hiring rubrics for which someone is assessed.

14 Q. And do you know if that process you just described was used  
15 in OCTO during the time that Ms. Rowe was being hired?

16 A. It has been part of our staffing process across Google  
17 since I joined the organization ten years ago.

18 Q. Okay. But my question is do you have knowledge that it  
19 was, in fact, used with Ms. Rowe at the time she was hired?

20 A. No direct knowledge.

21 Q. Now, let's look at the data that you pooled, and that's  
22 going to be Plaintiff's Exhibit 88.

23 MS. GREENE: Can you pull out for us, Mr. Yang, the  
24 column's name through hire date. Maybe make it a little bit  
25 bigger for everybody.

NACVROW5

Lucas - Direct

1 Q. Okay. And the first six people are men who were Level 9s  
2 in OCTO; correct?

3 A. If he can slide over and I can see the level column of the  
4 spreadsheet. But my assumption is -- one, two, three, four,  
5 five, six. Yes, the first six people are Level 9s.

6 Q. Okay. And if we can look at the hire dates for those six  
7 individuals, we see that the first -- we have Will Grannis, the  
8 leader of that group. And then the next one coming in was  
9 Evren Eryurek on October 31st, 2016; correct?

10 A. Yes.

11 THE COURT: Ms. Greene, where are you? I'm sorry, I'm  
12 trying to follow along here.

13 MS. GREENE: I'm looking at the hire dates on the  
14 right-hand side to establish the order in which people were  
15 hired.

16 THE COURT: I see it. Thank you.

17 BY MS. GREENE:

18 Q. So we have Mr. Eryurek, then we have Paul Strong, then we  
19 have Jonathan Donaldson. Oh, no, then Ben Wilson, then  
20 Jonathan Donaldson, then Nicholas Harteau; correct?

21 A. Yes.

22 Q. And then if we look down at Ms. Rowe, she was March 13,  
23 2017; correct?

24 A. Correct.

25 Q. And the next person to come in after Nicholas Harteau was

NACVROW5

Lucas - Direct

1 Mauro Sauco on June 5th; correct?

2 A. There's -- oh, you said after. Yes.

3 Q. Okay. So all of the uncolored names are L8s; correct?

4 A. Yes, that's correct.

5 Q. And all of those L8s, with the exception of Ms. Rowe, were  
6 hired June 5th, 2017 or later; correct? I'm sorry.

7 MS. TOMEZSKO: Objection.

8 Q. I'm sorry. There's two, Scott Penberthy and Brian Steikes.

9 With the exception of Scott Penberthy and Brian  
10 Steikes, everyone else was hired after June 5th, 2017; correct?

11 A. Yes, that's correct.

12 Q. Let's look at years of experience. Years at hire. Where  
13 did you draw these numbers from?

14 A. This was the data I pulled from gHire.

15 Q. And where did that data come from in gHire?

16 A. One of two ways. It's most often captured when a candidate  
17 completes an application, so essentially they kind of transpose  
18 their resume into a form that feeds into gHire.

19 Q. Did you do anything to verify that Ms. Rowe's years of  
20 experience were 19 at the time of hire?

21 A. I looked in gHire, which is our source of record.

22 Q. You didn't do anything independently to make sure that the  
23 number that was in gHire was correct; is that right?

24 A. Correct. Yeah.

25 Q. Now, Ms. Rowe had experience equal to Mr. Harteau; correct?

NACVROW5

Lucas - Direct

1 MS. TOMEZSKO: Objection.

2 Q. In terms of years of hire?

3 THE COURT: Sustained.

4 Q. Ms. Rowe had the same number, 19, as Nicholas Harteau,  
5 under the column years at hire; correct?

6 A. Correct.

7 Q. And Mr. Grannis had 18 years at hire; correct?

8 A. That is correct.

9 Q. And what is the "experience in" column?

10 A. The experience -- so if I remember correctly, I think the  
11 experience in was simply post college or school; so kind of a  
12 totality of experience. So almost the difference between  
13 domain experience versus overall working experience.

14 Q. Did you do anything to verify whether those numbers were  
15 correct?

16 A. No.

17 Q. Okay. If we look at education, Paul Strong, B.S. in  
18 physics; correct?

19 A. Sorry. Yes.

20 Q. And none of the men who are listed as Level 9s have  
21 computer engineering degrees; correct?

22 A. Computer engineering.

23 Q. Or computer science.

24 A. Not based on this data, the translatable.

25 Q. Okay. Do you know if Nicholas Harteau had any degrees?



NACVROW5

Lucas - Direct

1 A. I'm not familiar with Nick specifically.

2 Q. And Jonathan Donaldson had not received his master's, but  
3 was six hours short; correct?

4 A. That's what it appeared, yeah.

5 Q. And Paul Strong only had a bachelor's; is that correct?

6 A. As far as I can tell.

7 Q. And Ms. Rowe had a B.S. and M.S. in computer science;  
8 correct?

9 A. That's what I see, yeah.

10 Q. So do you know if this analysis you did in any way follows  
11 any sort of established investigative process for someone who's  
12 raised a concern about their level?

13 A. No, which is why I didn't lead the investigation; I passed  
14 it to our employee relations team who manages that process.

15 Q. Do you know if this information was shared with Ms. Rowe  
16 that she was leveled the same by years of experience and  
17 education as these other people so she was not under-leveled?  
18 Do you know if that was shared with her?

19 A. I don't know.

20 Q. Do you know if ER relied on the data that you pooled as  
21 part of its investigation into Ms. Rowe's concern?

22 A. I don't know. You would need to ask our ER partner on  
23 that.

24 MS. GREENE: Okay. You can take that down, Mr. Yang.

25 Q. Okay. I want to bring your attention to a document. We're

NACVROW5

Lucas - Direct

1 not going to publish it to the jury at this time. It's P-102.

2 Do you recognize this document?

3 A. Yes, it appears like something that's posted on an internal  
4 hiring site.

5 Q. And do you recognize the substance and the content of this  
6 document?

7 A. Is there a way for me to make it bigger on my screen?  
8 Apologies.

9 Q. Sure.

10 MS. GREENE: Vincent, can you call up the text of it,  
11 please.

12 A. Apologize. Can you repeat the question again?

13 Q. Sure. Do you recognize the substance of this document?

14 A. Generally, yeah.

15 Q. Does this document accurately reflect Google's leveling  
16 approach as it existed in 2016/2017?

17 A. I don't know because there's not a date stamp on it.

18 Q. I'm asking you that question specifically because we don't  
19 have the version that existed in 2016 and 2017. So I'm asking  
20 you if this, as far as you remember, was the policy that was in  
21 place during that time period?

22 A. Can you give me a moment to read it all?

23 Q. Please. And I'm actually going to ask you specifically  
24 about the section that says "do not," if you want to look  
25 there.

NACVROW5

Lucas - Direct

1 A. Okay.

2 Q. And so what's reflected under "do not"? Was that Google's  
3 general approach to leveling as it existed in 2016 and 2017?

4 A. So as I'm interpreting this document, this document is  
5 about the feedback through the interview process for which we  
6 typically -- I don't recall us ever making note of that in the  
7 interview feedback, specifically in gHire, because that  
8 decision would have been made later in the process.

9 Q. Okay. Let me ask you a different question.

10 A. Okay.

11 Q. Do you know if in 2016 and 2017, Google had a policy that  
12 leveling recommendations should not be based on outside  
13 factors, outside of the performance interview, outside factors  
14 like years of experience should not be considered? Do you know  
15 if that was Google's policy in 2016/2017?

16 A. I can't say definitively.

17 Q. Do you know if it was Google's policy in 2016/2017 that  
18 education level was something that should not be used, should  
19 not be a factor for setting level?

20 A. I can't say definitively.

21 So how leveling would work from an external candidate  
22 perspective is experience, education would typically be the  
23 guideline that would inform the process that you followed from  
24 an interview rubric's perspective and the questions you would  
25 subsequently ask. So that became kind of the initial guide of

NACVROW5

Lucas - Direct

1 the process. But the actual decision wasn't made until it went  
2 to hiring committee at the end of the process after the  
3 candidate had completed the interviews and feedback was  
4 submitted.

5 Q. But you don't know, again, whether years of experience were  
6 considered at all for OCTO; correct?

7 A. I can't say definitively.

8 MS. GREENE: We can take that document down, please.

9 And now I want to look at Plaintiff's Exhibit 103,  
10 which I believe there's no objections to.

11 MS. TOMEZSKO: No objections.

12 MS. GREENE: Okay. If we can look at Plaintiff's  
13 Exhibit 103. And if you can pull out the text of that,  
14 Mr. Yang.

15 THE WITNESS: Thank you.

16 Q. So this was -- if you pull down that screen just a slight  
17 amount, Mr. Yang. Do you see that it's our leveling  
18 philosophy?

19 A. On the subject? Yes.

20 Q. Okay. And that first paragraph, "Our Philosophy and  
21 Approach," do you see that?

22 A. I do.

23 Q. Does that accurately reflect Google's philosophy and  
24 approach to leveling?

25 A. Yeah, it's -- it's a relatively high-level statement, but I

NACVROW5

Lucas - Direct

1 think directionally, yeah, it captures it.

2 Q. Okay. And so can you just share for purposes of the record  
3 what the philosophy and approach for Google is with respect to  
4 leveling?

5 A. In my own words or would you like me to read it?

6 Q. You can put it in your own words.

7 A. I think leveling usually starts by the scope of the role,  
8 and that's typically where we started. We look at a few  
9 different attributes that would inform the level at which we  
10 would want to hire. As we move through the process, that  
11 becomes kind of the target level for the candidates that we  
12 would try to source. The way in which it's written here, it  
13 also speaks about the future potential of it as well.

14 So when you look at the candidate's perspective,  
15 you're evaluating them for the role, but you're also evaluating  
16 them for kind of the future potential at Google. So how I like  
17 to think about it, can they do this role, but can they do five  
18 other roles beyond this role is kind of how I would paraphrase  
19 it.

20 Q. Let's look at the star be consistent. It says: When we're  
21 consistent in how we initially level like roles across groups  
22 and regions, we foster equity throughout Google and create a  
23 fair and level playing field for perf and promo. That's  
24 performance and promotion, right?

25 A. Correct.

NACVROW5

Lucas - Direct

1 Q. So Google understood that it was important to like level,  
2 like level -- I'm sorry, to initially level like roles across  
3 groups and regions the same if they wanted to foster equity at  
4 the company; correct?

5 A. Correct. An important distinction there is if a set of  
6 roles share the same job family, they can still be scoped  
7 differently.

8 So for example, if there are ten roles within the same  
9 job family, some are Level 8, some are Level 9. The Level 9  
10 roles I would expect to have an increased opportunity for  
11 impact, perhaps a more direct link to the company's strategic  
12 priorities, perhaps a level of complexity that you wouldn't  
13 necessarily see at that same scale for a Level 8 employee.

14 So it's an important distinction that while they may  
15 carry the same job title, the scopes are certainly different,  
16 and the subsequent expectations and impact you would expect  
17 from those roles, and the individuals in those roles would be  
18 different.

19 Q. Do you know whether OCTO had a leveling guide that went  
20 past Level 8?

21 A. I can't think of one offhand, but I wasn't supporting OCTO  
22 at the time.

23 Q. Okay. Do you know whether OCTO had done anything to  
24 articulate what the differences were between Level 8 and Level  
25 9 in the 2016/2017 time period?

NACVROW5

Lucas - Direct

1 A. I would assume so, because when we are standing up new  
2 teams, that typically becomes the way in which we structure the  
3 organization and identify the roles that we need to hire. But  
4 I don't know specifically because I wasn't working with OCTO in  
5 2016, I believe is when you said.

6 Q. Okay. So you don't know whether OCTO made any distinction  
7 between Level 8 and Level 9; correct?

8 A. Correct. I think Will Grannis can probably answer that  
9 question for you.

10 Q. Now, would you agree that you've never seen a time when  
11 someone has moved from a Level 8 to a Level 10?

12 A. Yeah, I can definitively say that.

13 Q. That's just not something that happens, right, at Google?

14 A. I haven't seen it happen and I haven't heard of it  
15 happening.

16 Q. So the decision to level someone at a Level 8 would have  
17 significant implications with respect to their ability to then  
18 move to a Level 10 without first going to Level 9; correct?

19 A. That's the way in which our levels are structured; correct.

20 Q. Let's look at D-63.

21 Do you have an understanding of what this document is?

22 A. Yeah, it appears to articulate or differentiate the TSC job  
23 ladder by level.

24 Q. Okay. And so this is basically the leveling guide for the  
25 technical directors in OCTO; correct?

NACVROW5

Lucas - Direct

1 A. The technical directors in OCTO, I think, would be captured  
2 in this; but this document is for the broader technical  
3 solutions consultant ladder. So while OCTO had roles within  
4 that ladder, there were many other organizations in Google that  
5 also had roles within the TSC ladder.

6 Q. Okay. If we can go to the third page, we see L8 principal  
7 or director technical solutions consultant. Do you see that?

8 A. I do.

9 Q. And I want us now then to go to the last page. So this  
10 ladder and this leveling guide for this ladder ends at Level 8;  
11 correct?

12 A. If -- oh, so is what I just saw, was that the preceding  
13 page?

14 Q. It was.

15 A. Yes, it appears as though it stops at Level 8 in this  
16 document.

17 Q. So there's nothing in that ladder that distinguishes what  
18 is different between a Level 8 and a Level 9; correct?

19 A. For TSC, no.

20 Q. Okay. And do you know if in OCTO there was any other  
21 document that for OCTO specifically described, again, what the  
22 differences were between Level 8 and Level 9 back in 2016 and  
23 2017?

24 A. I think at that point in time we had leveling guidance  
25 through Level 9 that focused on scope, contribution, influence,



NACVROW5

Lucas - Cross

1 and I think it was impact as well. So that would actually draw  
2 the differentiation across them because that would encompass  
3 basically any technical role at Google.

4 Q. Do you know if that was used in OCTO?

5 A. I don't know specifically. I wasn't supporting OCTO at the  
6 time, I'm sorry.

7 Q. Do you know if anyone in OCTO looked at that?

8 A. You would have to ask the individuals in OCTO. I don't  
9 know what they did.

10 Q. So would you agree that without knowing what factors OCTO  
11 considered at the time it made leveling decisions, and without  
12 knowing how OCTO distinguished between Level 8s and Level 9s,  
13 you weren't in a position to draw any conclusions with respect  
14 to whether Ms. Rowe was leveled correctly; isn't that right?

15 A. I'm not the decision-maker in that; correct.

16 MS. GREENE: No further questions.

17 CROSS-EXAMINATION

18 BY MS. TOMEZSKO:

19 Q. Good afternoon, Mr. Lucas. How are you?

20 A. I'm well, thank you.

21 Q. We've been hearing a lot about the term "level" in this  
22 trial. Can you define what a level is at Google?

23 A. Yes. So it is essentially a framework by which we  
24 architect jobs that help us hire and move people throughout the  
25 organization, as well as develop and promote them.

NACVROW5

Lucas - Cross

1 Q. And I think earlier you said there were four things that go  
2 into a level, am I getting that correct?

3 A. Yes. If I remember correctly, it was scope, contribution,  
4 influence, and impact.

5 Q. You said scope, contribution, influence, and impact?

6 A. Correct.

7 Q. Can you describe what scope refers to when it comes to  
8 level?

9 A. Yup. Scope typically looks at quantitative and qualitative  
10 factors of the role. From a quantitative perspective, it would  
11 look at things like reporting hierarchy and how many layers you  
12 are away from the CEO. In this case it would be Thomas.

13 Size of the organization is sometimes a consideration,  
14 particularly for people leaders in the organization.  
15 Oftentimes we can consider things like attachment to strategic  
16 priorities of the broader organization as well. So those are  
17 just kind of a few of the factors that would inform it.

18 Q. You also mentioned contribution. Can you explain what  
19 contribution means in the context of a level at Google?

20 A. Yeah. It's almost like the value that individual brings to  
21 the role or can bring to the role. So maybe a different way to  
22 say it is kind of the opportunity for that person's individual  
23 opportunity to have impact.

24 Q. You also mentioned influence. Can you describe influence  
25 and how it relates to a level at Google?

NACVROW5

Lucas - Cross

1 A. Yeah. So we look at this internally and externally. From  
2 an internal perspective, we think about the stakeholders and  
3 partners for which that person is going to interact with across  
4 Google most frequently and the level at which they're  
5 interacting with.

6 Externally, we look at customer and partner  
7 relationships. So does the role -- to kind of exaggerate, does  
8 the role interact primarily with C-level executives at a  
9 customer's organization or is it more midlevel management.  
10 That informs it.

11 Q. And finally, impact. Can you explain what impact means as  
12 it relates to level at Google?

13 A. Yeah. This is actually what the individual delivers and  
14 the value that it actually has on Google. So for example, in  
15 sales roles, this would be largely around revenue and pipeline  
16 and booking. So are they continuing to generate a business  
17 that's growing at a reasonable pace.

18 From an engineering or product perspective, it could  
19 be things like the innovation you're driving within a respected  
20 product. It could be kind of cleaning up technical debt to  
21 make things more efficient for our products to run.

22 Q. Now, those four things you mentioned, scope, contribution,  
23 influence, and impact, do those change as the level changes?

24 A. Yes, they generally increase with each hire level.

25 Q. Do each of those four increase as the level gets higher?

NACVROW5

Lucas - Cross

1 A. In most cases, yes. The one that might not could be scope,  
2 because it depends on the role. Again, we have -- on the  
3 engineering side of the house, we have really, really senior  
4 individual contributors who are kind of known to be the  
5 technical experts in a respective system or platform. By  
6 contrast, you could have a people leader who's leading an  
7 organization of 100, 200, 300 people. So that's probably the  
8 one that is a little more different. But arguably the other  
9 three just continue to increase.

10 Q. Thank you. And I'm glad you brought up the individual  
11 contributor people manager distinction. I was actually about  
12 to go there, so let's stay there.

13 I think earlier we heard your testimony about how that  
14 distinction, individual contributor versus people manager,  
15 doesn't necessarily have -- rather, I wish I had your testimony  
16 in front of me so I can quote you accurately, but you can tell  
17 me if I'm wrong. It does not play a role in the actual  
18 compensation setting for that position; is that right?

19 A. Correct. So from a compensation perspective, we don't  
20 differentiate between people managers and individual  
21 contributors. They're fundamentally different jobs.

22 How I like to describe it is if you are an individual  
23 contributor, you have a set of responsibilities that you are  
24 uniquely positioned to deliver. When you are a people manager  
25 at Google, a part of your job is individual contributor

NACVROW5

Lucas - Cross

1 activities, whereby you are doing individual work to deliver  
2 something. But another big part of your job is actually how  
3 are you managing, leading, and developing the team. So there  
4 are different jobs with different expectations, but we don't  
5 differentiate them from a compensation perspective.

6 Q. Can you give us just a few examples of something that a  
7 people manager is expected to do that an individual contributor  
8 is not?

9 A. Yes. So our performance management process, while it's  
10 evolved over time, it's principally remained rooted in  
11 communicating and setting expectations for the team, checking  
12 in throughout the year, communicating progress and sharing  
13 feedback, both positive and developmental, assessing and rating  
14 the individual at the year interview process. That's kind of  
15 the performance-related one. There are obvious compensation  
16 processes that a manager would have that an individual  
17 contributor would not.

18 Q. Thank you.

19 And does the concept of level play any role in the  
20 performance process that you just mentioned?

21 A. Yes. So as we move through the performance process,  
22 there's kind of two anchor points. At the beginning of the  
23 year is when we set expectations for individual roles across  
24 the organization. And at the end of the year, we assess that  
25 individual Googler against the expectations of that job.

NACVROW5

Lucas - Cross

1           At both of those points, those expectations and the  
2           assessment of impact are aligned to their level and role in the  
3           organization. So for example, a manager who's assessing an L7,  
4           an L8, and an L9, all three of those individuals would have  
5           different expectations in subsequent different levels of impact  
6           and you would assess them according to the level.

7           Q. So is it fair to say that a Level 8 employee is assessed  
8           against a different set of expectations than a Level 9  
9           employee, even if they are in the same job family?

10          A. Absolutely.

11          Q. Now, I think there was some earlier testimony about making  
12          sure that the leveling process is fair and equitable. Do you  
13          remember that?

14          A. Yes.

15          Q. Are you familiar with a group within Google that is  
16          referred to as CESO, with the acronym C-E-S-O?

17          A. Yeah. So it's a re-brand of what used to be the offer  
18          review team. I think it stands for Candidate Evaluation Strat  
19          Ops. This is essentially the team that historically would be  
20          kind of the capstone of the hiring process that would look at  
21          everything that's led up to that decision, things like  
22          interview feedback, leveling. Compensation is really kind of  
23          where they spent most of their time. But that came at the end  
24          of the process before we would ever extend an offer.

25          Q. If I understand you correctly then, the purpose of CESO,

NACVROW5

Lucas - Cross

1 its function, is to make sure that leveling is fair and  
2 equitable, am I getting that right?

3 A. Correct. That is one of them, yes.

4 Q. Now, we looked at an email earlier, and it was an exchange  
5 between you and Melissa Lawrence regarding a concern that  
6 Ms. Rowe had raised with respect to her level. Do you recall  
7 that?

8 A. Correct. Yes.

9 Q. And you pulled some data from gHire you said?

10 A. Yes.

11 Q. Would you have any reason to doubt the accuracy of the data  
12 in gHire?

13 A. No. Most of it is self-reported by the candidate that is  
14 transposed from their resume.

15 Q. And when you pulled that data from gHire and the other  
16 sources, why? Why did you do it?

17 A. Quite candidly, when I would receive an email like that,  
18 it's important to me to take it seriously, and I wanted to see  
19 the kind of scope and significance of it all. Because the way  
20 in which it was positioned in the note to Melissa and myself,  
21 it concerned me, right. So if this is a materially substantive  
22 thing, then we wanted to address it, which I think is why I  
23 responded so quickly to it.

24 MS. TOMEZSKO: Let's actually pull up that exhibit so  
25 we could look at the response. I don't have the plaintiff's

NACVROW5

Lucas - Cross

1 number, but I do know it is D-9. Can we pull up defendant's --  
2 and I assume there's no objection.

3 MS. GREENE: I'm sorry, what was the document?

4 MS. TOMEZSKO: D-9.

5 MS. GREENE: No objection.

6 MS. TOMEZSKO: Yes. Can you please publish it, Jean.

7 Q. Okay. So if we could scroll down, Mr. Lucas, to the first  
8 page -- actually, Jean can do it for you. So this is the email  
9 that Ms. Rowe sent to Melissa Lawrence and plus you into on  
10 August 28, 2018?

11 A. Correct.

12 MS. TOMEZSKO: If we can look at the date and the time  
13 stamp please, Jean. Can you make that bigger. Thank you.

14 Q. What time was this email sent, according to this document?

15 A. 4:29 p.m. on August 28.

16 Q. Okay. Let's scroll up to the next communication in this  
17 email, and let's look at Melissa Lawrence's response.

18 What time did Melissa Lawrence respond?

19 A. About 4:49 p.m.

20 Q. Okay. So that's about --

21 A. Twenty minutes.

22 Q. -- 20 minutes later, same day?

23 A. Yeah.

24 MS. TOMEZSKO: Now, can we go up to the next email.

25 Q. And this is you responding at what time?



NACVROW5

Lucas - Cross

1 A. 5:02 p.m., same day; so 13 minutes after Melissa's  
2 response.

3 Q. And again, why did you respond this rapidly you said?

4 A. It's a concern that someone is raising, so we always take  
5 them seriously. So for me it was important to, like, get the  
6 process started as quickly as possible.

7 Q. And after you pulled the gHire data that we looked at  
8 earlier, did you stop there?

9 A. No. That's when I think what I mentioned earlier is we  
10 have an employee relations team who looks into investigations  
11 that would look into things like Ms. Rowe's concern. So that's  
12 when I started partnering with, I believe it was, April at the  
13 time, and actually transferred it to her. So after I passed it  
14 to her, I wasn't involved in the investigation per se.

15 MS. TOMEZSKO: If we could scroll down to the email  
16 initially from Ms. Rowe, the next page of this document.

17 Q. Was there something in here specifically that caused you to  
18 escalate this concern to employee relations?

19 A. I think one of the first things was the comparator to her  
20 male peers, that was probably the first thing that kept me --  
21 or kind of flagged it to me. Then when she got into the  
22 leveling concern about kind of being brought in as an 8,  
23 there's this VP of financial services role, to me it signaled  
24 that it was broader than maybe just this isolated issue.

25 Q. Is that why you escalated it to employee relations?

NACVROW5

Lucas - Cross

1 A. Mm-hmm.

2 Q. Now, once you escalated it to employee relations, what was  
3 your role in the process of the investigation that ensued?

4 A. For a large part, I didn't have too much of a role. Like  
5 employee relations manages and runs the entire process.

6 So what typically happens in these situations is  
7 whenever there's a concern, it is either raised directly to  
8 them, funneled through our anonymous channels, or passed to  
9 them from the HR team. They typically take a period of time to  
10 do a little bit of context gathering and understanding some of  
11 the data that's around this.

12 So once I passed it to employee relations, I was  
13 largely done with it until the conclusion of the investigation.

14 Q. During the pendency of the investigation, even though you  
15 were not involved, would April, I believe you said -- is that  
16 April Beaupain?

17 A. Yes.

18 Q. Would Ms. Beaupain provide you periodic updates on where  
19 they were in the process of the investigation?

20 A. I seem to remember updates, but not specific updates, more  
21 so just we're continuing to look into it. Nothing that was  
22 substantive.

23 Q. I'd like to take a look at a document, P-55. Mr. Lucas, if  
24 you could look at the top of this document, it's the first  
25 communication. What do you recognize this to be?

NACVROW5

Lucas - Cross

1 A. So this was a note between April, Melissa Lawrence, Fiona  
2 O'Donnell, who was my manager at the time, and Tariq Shaukat.  
3 And it appears as though it was sent when I was out of office.  
4 So I was redirecting them while I was on vacation.

5 Q. And it says here in the last sentence: I think April is  
6 almost done with the investigation, so I'll defer to her for  
7 resolution confirmation. Do you see that?

8 A. Yes.

9 Q. Is that one of the kinds of status updates that you were  
10 referring to earlier?

11 A. Yeah.

12 Q. Now, when you learned that Ms. Rowe had a concern about her  
13 leveling, did you share that information with anyone outside of  
14 employee relations?

15 A. No. I wouldn't necessarily have a need to.

16 Q. To be more specific, did you have any discussions with  
17 Stuart Vardaman about Ms. Rowe's leveling concerns that she had  
18 raised in August of 2018?

19 A. No.

20 Q. Did you have any discussions with Tariq Shaukat about the  
21 leveling concerns that Ms. Rowe raised in 2018?

22 A. Just like some kind of process-related discussions about  
23 it, but nothing like substantive.

24 Q. If I could streamline here. Oh, I'm sorry.

25 A. I was just going to say, my conversations with Tariq were

NACVROW5

Lucas - Cross

1 helping him manage through the process, but it was in the  
2 context of the role that Ms. Rowe was interested in. So  
3 helping him kind of navigate that, I guess.

4 Q. Let's see. Oh, just one more question about seeking new  
5 roles within Google.

6 When someone is transferred into a position that might  
7 be scoped at a higher level than the level that person's at  
8 currently, if they are transferred into that position, would  
9 their level automatically change at that time with the  
10 transfer?

11 A. No. So at Google, when people transfer into roles at --  
12 how we describe it, L plus one or at a higher level, they  
13 transfer at their current level, demonstrate their required  
14 performance and subsequent impact of that level, and then are  
15 promoted at some point once that is kind of warranted through  
16 their contributions.

17 Q. And I think you had mentioned earlier -- we were discussing  
18 the interview process and what factors go into leveling. You  
19 had mentioned rubrics. Can you explain what a rubric is?

20 A. Yes. So whenever we interview candidates at Google, we  
21 interview them on kind of four broad attributes. The first one  
22 is what we call general cognitive ability. It's basically  
23 problem-solving. Your ability to identify a problem, find data  
24 to actually test the hypothesis, work towards a solution, maybe  
25 iterate on that solution, and go back and look at feedback. So

NACVROW5

Lucas - Cross

1 it's kind of problem-solving at its core.

2 The second one is around leadership. And it's less  
3 about people leadership and more about individual and personal  
4 leadership. So how I often describe this is are you the person  
5 that sees a problem and run towards it and solves it, even if  
6 it's outside of your core responsibilities or scope.

7 Googliness is kind of the third one. This is kind of  
8 the one that's more teamwork and collaboration focused. I  
9 often describe it as are you a good person and would be a great  
10 partner and teammate.

11 And then the last one is role-related knowledge. And  
12 this is simply can you do the job for which we're hiring you or  
13 considering you.

14 Q. Are those four competencies generally used to evaluate  
15 candidates across all positions at Google regardless of job  
16 family?

17 A. Yes.

18 Q. Are there any differences in which rubrics are used based  
19 on the job family?

20 A. Based on the job family, no. For leadership roles, we --  
21 there's kind of a second layer, if you will, of attributes that  
22 we assess. I hope I'm going to remember all five.

23 One is around adapts. So this is can they flex to the  
24 situation or the environment and still make progress on  
25 whatever body of work they are trying to do.

NACVROW5

Lucas - Redirect

1 Delivers. So this is literally are you delivering  
2 results and having the impact that we would expect from this  
3 role.

4 Includes. So do you lead from an inclusive  
5 perspective; are you bringing people into the conversation and  
6 kind of bringing them along with you.

7 And now I'm blanking on four and five.

8 Q. That's good enough for me.

9 A. Sorry.

10 Q. I have no further questions, Mr. Lucas.

11 Thank you for your time.

12 A. Thank you.

13 REDIRECT EXAMINATION

14 BY MS. GREENE:

15 Q. Just a few follow-up questions, Mr. Lucas.

16 A. Sure.

17 Q. You talked about level being a reflection of scope,  
18 contribution, influence, and impact. Correct?

19 A. Yes.

20 Q. Did you have any understanding of how Ms. Rowe's scope  
21 compared to that of her L9 colleagues?

22 A. Not specifically about Ms. Rowe. I was not supporting OCTO  
23 at the time.

24 (Continued on next page)

NACHRow6

Lucas - Direct

1 BY MS. GREENE:

2 Q. Do you have any information about how Ms. Rowe's  
3 contributions compared to her L9 male comparators?

4 A. I don't. Again, I was not supporting OCTO at the time.

5 Q. Do you or did you have any understanding of Ms. Rowe's  
6 influence as compared to her L9 comparators in OCTO?

7 A. I do not.

8 Q. Do you have or did you have any understanding of Ms. Rowe's  
9 impact with respect to her L9 male comparators in OCTO?

10 A. I do not.

11 Q. Those four factors — scope, contributions, influence, and  
12 impact — do you know whether those were the four that were  
13 used in OCTO?

14 A. Not specifically for OCTO. The four that are used across  
15 the tech families.

16 Q. But you don't know if they were used in OCTO, correct?

17 A. Correct.

18 Q. And you don't know whether there were any differing  
19 expectations outlined anywhere from L8s and L9s in OCTO,  
20 correct?

21 A. Correct. I wasn't supporting them.

22 Q. And you can't say where differences between L8 and L9 as  
23 they existed in 2016 and 2017 would be articulated?

24 A. They are articulated. I can see the document itself  
25 because it has levels on the left-hand side and the four

NACHRow6

Lucas - Direct

1 attributes on the top, and it's inclusive of all technical  
2 roles.

3 Q. But do you know whether that was used for OCTO?

4 A. Sorry. I thought you asked if I was aware of something.

5 Q. No, I'm saying do you know whether anything like that was  
6 actually used in OCTO in 2016, in 2017 at the time the leveling  
7 decisions at issue were made?

8 A. I don't have visibility into that.

9 Q. You discussed four broad attributes that are generally part  
10 of the rubrics that are used in interviewing. Did I get that  
11 right?

12 A. There are five. I could remember three of them offhand.  
13 Sorry.

14 Q. Those attributes, do you know whether those attributes —  
15 go ahead. I'm sorry.

16 A. I apologize. There was a distinction. You were asking  
17 about the four attributes: the GCA, leadership, Googliness, and  
18 RRK. Those are kind of the universal ones across Google. For  
19 leadership ones, those are the ones I was referencing.

20 Q. So for someone who was interviewing for a VP-level role,  
21 are those the types of rubric attributes that would be used or  
22 should be used in the context of interviewing them?

23 A. Yes, we would focus on those.

24 Q. So not asking questions relating to that would be a  
25 deviation of the normal interviewing process for someone at



NACHRow6

Lucas - Direct

1 that level?

2 A. It's difficult to say because there are some questions that  
3 are mapped to multiple attributes. So you can ask one question  
4 and provide feedback in that specific attribute, but it also  
5 touches on other attributes as well. Does that make sense?

6 Q. Would it be a deviation to do an interview for an L10 and  
7 not use rubrics at all?

8 A. I'm not aware of — I'm not aware of a time in which a VP  
9 has been interviewed and not used a rubric.

10 Q. That would be unusual?

11 A. Yeah.

12 Q. Do you know whether the people who interviewed Ms. Rowe for  
13 the VP financial services position used any rubrics in the  
14 interview?

15 A. For Ms. Rowe specifically or all of them?

16 Q. For Ms. Rowe.

17 A. I remember us talking about rubrics when we were having  
18 our, I think, biweekly staffing meetings. So we would talk  
19 about it in context of the rubrics. I don't specifically  
20 remember, like, each individual candidate, though. But we  
21 definitely talked about rubrics in the context of the role.

22 Q. Do you know if those rubrics were used with Ms. Rowe when  
23 she was interviewed?

24 A. I don't know specifically for Ms. Rowe, but, again, I can't  
25 remember for each individual candidate.

NACHRow6

Lucas - Recross

1 MS. GREENE: No further questions.

2 MS. TOMEZSKO: Just one follow-up, your Honor.

3 RECROSS EXAMINATION

4 BY MS. TOMEZSKO:

5 Q. Mr. Lucas, who is in the best position to explain to the  
6 jury how leveling within OCTO worked, both generally and as to  
7 Ms. Rowe?

8 MS. GREENE: Objection.

9 Q. To your knowledge, who would be the best person to explain  
10 to the jury how leveling worked within OCTO and how it worked  
11 with respect to Ms. Rowe?

12 A. Will Grannis.

13 MS. TOMEZSKO: Thank you.

14 THE COURT: All right. Well, I was going to have you  
15 take a break at 3:15, but it's 3:02, so that probably doesn't  
16 make sense. Should we just take a break now?

17 All right. Is Mr. Lucas excused?

18 You may step down.

19 THE WITNESS: Thank you.

20 (Witness excused)

21 THE COURT: All right. Members of the jury, it is  
22 3:03 p.m. If you could, please be back here at 3:18 p.m.  
23 There will be refreshments for you for this midafternoon break.  
24 And please do not talk to each other or anyone else about the  
25 case. Keep an open mind. Do not do any research about the

NACHRow6

Lucas - Recross

1 case.

2 All right. Thank you.

3 (Jury excused)

4 (Continued on next page)

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

NACHRow6

1 (Jury not present)

2 THE COURT: Have a seat.

3 Just one question, and then we'll actually take a  
4 break.

5 Ms. Greene, which of plaintiff's claims is the  
6 Bennett-related evidence relevant to?

7 MS. GREENE: Her New York City Human Rights Law  
8 discrimination claim.

9 THE COURT: OK. Let's take a break.

10 (Recess)

11 THE COURT: All right. Ms. Williams, would you bring  
12 in the jury, please.

13 MR. GAGE: Your Honor, shall we have the witness come  
14 in the courtroom?

15 THE COURT: Yes, please.

16 (Continued on next page)

NACHRow6

Vardaman - Direct

1 (Jury present)

2 THE DEPUTY CLERK: You can all be seated except for  
3 the witness.

4 THE COURT: All right. Let's proceed. You may be  
5 seated — oh, no, you're going to be sworn in.

6 STUART VARDAMAN,

7 called as a witness by the Plaintiff,

8 having been duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MS. GREENE:

11 Q. You can have a seat, Mr. Vardaman.

12 THE DEPUTY CLERK: I'm sorry, sir. I should have said  
13 that.

14 Q. Good afternoon.

15 A. Good afternoon.

16 Q. Mr. Vardaman, you were the recruiter for the financial  
17 services vertical lead role as well as the VP sales financial  
18 services role, correct?

19 A. That is correct.

20 Q. You weren't originally going to show up in person here  
21 today, correct?

22 MS. TOMEZSKO: Objection to relevance.

23 THE COURT: Ask your next question.

24 Q. Why did you decide to come here and testify today?

25 MS. TOMEZSKO: Same objection.

NACHRow6

Vardaman - Direct

1 THE COURT: Overruled.

2 A. Because I believe it to be the right thing to do, show up  
3 in person. I came here to tell the truth about what I know in  
4 this case. And I did also see a piece of media that attributed  
5 words I don't recall.

6 THE COURT: Wait a second.

7 Can we sidebar on this.

8 (Continued on next page)

NACHRow6

Vardaman - Direct

1 (At sidebar)

2 THE COURT: This worries me because I don't want them  
3 going to look up that article and I don't want them knowing  
4 what's in that article. So any proposals?

5 MS. GREENE: Here's the trouble. He's presently  
6 sitting there because he feels like he has to personally defend  
7 himself. That's something the jury should be able to know in  
8 terms of assessing his credibility and whether he's biased. He  
9 feels and he testifies that — he feels like he has skin in  
10 this game, that's important. And I'm not intending and I  
11 didn't ask him specifically about that article for the reasons  
12 that we discussed before, but I do need to have a way to get  
13 out that he's here because he feels that he's personally been  
14 accused of wrongdoing and he needs to defend himself.

15 THE COURT: Is that in the *Wired* article? Is he  
16 specifically mentioned in the *Wired* article.

17 MS. TOMEZSKO: The *Wired* article refers to an  
18 executive recruiter. It does not refer to him by name. And  
19 frankly, your Honor, I think he just testified as to why he's  
20 here.

21 MS. GREENE: But he started to go and elaborate about  
22 why he's here. I mean, it was unusual circumstances where he  
23 wasn't going to come, and three days before, he changed his  
24 mind. And I think the jury should know why.

25 MS. TOMEZSKO: Again, I think he just said that.

NACHRow6

Vardaman - Direct

1 THE COURT: He was about to go into it in the article,  
2 and I don't want them hearing that. When we voir dire them,  
3 they talked about press. They all said they didn't know about  
4 the case. I'm paraphrasing now, but they hadn't done research  
5 about the case, whatever. And if we mention a specific  
6 article, I'm worried about the risk that they're going to look  
7 for the article.

8 MS. TOMEZSKO: I'm worried about that too, your Honor.

9 MS. GREENE: Maybe can I ask him the more general  
10 question, are you here because you feel that you need to  
11 defend —

12 THE COURT: Yes.

13 MS. GREENE: — decisions that you made and to defend  
14 your reputation?

15 MS. TOMEZSKO: I'm fine with that.

16 THE COURT: Yes, I'm fine with that.

17 MS. GREENE: OK.

18 (Continued on next page)  
19  
20  
21  
22  
23  
24  
25



NACHRow6

Vardaman - Direct

1 (In open court; jurors present)

2 BY MS. GREENE:

3 Q. Mr. Vardaman, I'm going to ask you a yes-or-no question.

4 Are you here because you feel the need to defend  
5 actions that you yourself took in the course of Ms. Rowe's  
6 employment?

7 A. No.

8 Q. Are you here because you believe that Ms. Rowe has accused  
9 you wrongly of wrongdoing?

10 A. No.

11 Q. You're here simply to tell the truth?

12 A. Correct.

13 Q. And without telling us anything about anything more than  
14 your own change of heart about testifying here in person, what  
15 was your change of heart? Why were you originally not going to  
16 testify? And, again, I don't want you to tell me anything that  
17 precipitated it, but tell me just about your change of heart.

18 A. Sure. I was intended to — I was intending to show up in  
19 person the entire time. The court date moved around quite a  
20 bit, as did my schedule for travel and all that. The last time  
21 I recall it was landing during my kid's first week of school,  
22 and I wasn't going to miss that.

23 Q. All right. We'll see if we come back to that later.

24 Mr. Vardaman, in the course of your recruitment for  
25 the financial services vertical lead position, you did not

NACHRow6

Vardaman - Direct

1 discuss with Mr. Shaukat what Ms. Rowe's qualifications were,  
2 correct?

3 A. As a matter of process for internal Googlers, my job was to  
4 raise candidacy to the hiring manager who made the decision to  
5 include them in process or not.

6 Q. OK. So, yes-or-no question, is it correct that you did not  
7 discuss with Mr. Shaukat what Ms. Rowe's qualifications were?

8 A. Correct.

9 Q. Is it correct that the extent of your knowledge about her  
10 background was that she had worked at JPMorgan Chase?

11 A. Incorrect. We ended up spending time talking about her  
12 background.

13 Q. When?

14 A. I'm sorry?

15 Q. When?

16 A. Over the course of — after I was asked to include her in  
17 process, I recall we had a videoconference.

18 Q. What did you know about her industry background?

19 A. I walked through her background at a high level so that I  
20 could ascertain enough information to send the prep note to the  
21 panel members. But, again, once the decision had been made to  
22 include her into panel, that was my intention to deliver on  
23 that to the decision-maker.

24 Q. Mr. Vardaman, do you recall me deposing you in this case?

25 A. Yes, I recall.

NACHRow6

Vardaman - Direct

1 Q. And you recall giving testimony under oath in that case?

2 A. I do.

3 Q. I'd like to now play for you a portion of that testimony.

4 A. OK.

5 Q. It's going to be page 42, line 5 through 14.

6 Once you have it, Mr. Yang, you can go ahead and play.

7 (Video played)

8 MS. GREENE: You can stop it there.

9 Q. Was that your testimony?

10 A. That was, in fact, my testimony.

11 Q. Did you give true testimony when you testified?

12 A. I did.

13 Q. Now, you didn't know what role Ms. Rowe had had at JPMorgan  
14 Chase, correct?

15 A. That's correct.

16 Q. And you didn't know how many years she had worked in the  
17 financial services industry, correct?

18 A. That's correct.

19 Q. You didn't know what her technological background was,  
20 correct?

21 A. Correct.

22 Q. And you didn't know what advance degrees she held, correct?

23 A. Correct.

24 Q. You did not know what her experience was managing teams,  
25 correct?

NACHRow6

Vardaman - Direct

1 A. That is correct.

2 Q. And you did not speak with Brian Stevens about her  
3 qualifications for the role, correct?

4 A. No, I did not.

5 Q. And you did not speak with Will Grannis about Ms. Rowe's  
6 qualifications for the role, correct?

7 A. That is correct.

8 Q. In fact, you never learned what her qualifications were for  
9 the financial services vertical lead role, isn't that right?

10 A. As I mentioned earlier, the decision was made to involve  
11 her in process, and that is my job, as steward of the process  
12 for recruiting, to involve her in that process.

13 Q. Let's go back to your deposition testimony, and we're going  
14 to look at page 43:2 through 7.

15 Mr. Yang, if you could play that.

16 (Video played)

17 MS. GREENE: And if we can play the answer.

18 Q. I think we locked up, but was your answer to that question  
19 no?

20 A. Yes, it's right there.

21 (Video played)

22 MS. GREENE: OK. We can leave it, Mr. Yang. Thank  
23 you. Sometimes technology is not our friend, even when we're  
24 trying our best.

25 Q. Was that truthful testimony when you gave it at your

NACHRow6

Vardaman - Direct

1 deposition?

2 A. Yes.

3 Q. But that's different than what you just testified here  
4 today, correct?

5 A. As I recall, later on in the deposition, I provided  
6 additional context.

7 Q. My question was the testimony we just heard was different  
8 than what you just said here in court about what you knew about  
9 her qualifications, correct?

10 A. That was my testimony, yes, ma'am.

11 Q. OK. Now, before the panel of interviews, you sent the  
12 interviewers information about Ms. Rowe, correct?

13 A. That is correct.

14 Q. OK. Let's look at Plaintiff's 37.

15 Do you recognize this as an email from you to Jason  
16 Martin?

17 A. I do.

18 Q. And Mr. Martin was one of the individuals who interviewed  
19 Ms. Rowe, correct?

20 A. As I recall, yes.

21 Q. And under context and competencies — Mr. Yang, if you can  
22 call those two bullet points out — it says: "Ulku was on  
23 Brian Stevens' team before the reorg occurred that resulted in  
24 some of the vertical OCTO folks transitioning to Tariq's  
25 organization." And then going on, it says: "Brian Stevens is

NACHRow6

Vardaman - Direct

1 supportive of her interviewing for the lead role."

2 That's what you told Mr. Martin, correct?

3 A. That is correct.

4 Q. And then it says: "Please assess the leadership VP level  
5 and GCA competencies. If you'd like to review a list of  
6 questions, please see here."

7 Do you see that?

8 A. I do.

9 Q. Do you know whether Mr. Martin in fact did assess the  
10 leadership and GCA competencies?

11 A. That was his focus areas.

12 Q. Do you know whether he reviewed a list of questions before  
13 interviewing Ms. Rowe?

14 A. I do not know if he clicked on that link. He was an  
15 experienced interviewer.

16 Q. My question is do you know whether he in advance and in  
17 preparation for Ms. Rowe's interview assessed those competences  
18 or looked at a list of interview questions?

19 MS. TOMEZSKO: Objection. Asked and answered.

20 THE COURT: I'll allow it. Overruled.

21 A. You're asking me if I had personal knowledge of a separate  
22 human being going through that list of questions. The answer  
23 is no. No, ma'am.

24 MS. GREENE: OK. Let's take that down, and let's go  
25 now to the section on Ulku Rowe and call that out, please.

NACHRow6

Vardaman - Direct

1 Q. It says: "Impression: Executive poise, confident (but not  
2 ego-driven) forthright with a quick operating cadence."

3 You wrote that, correct?

4 A. I did.

5 Q. And then "RRK," what does that stand for?

6 A. It's role-related knowledge is what it stands for.

7 Q. And under concerns you noted "no major concerns are noted,"  
8 correct?

9 A. That is correct.

10 MS. GREENE: Let's take down that document.

11 Q. Then, Mr. Vardaman, did you send the same sort of email to  
12 each of Ms. Rowe's interviewers?

13 A. Yes.

14 Q. Now, in Ms. Rowe's case, none of the four interviewers  
15 provided feedback into the gHire system, isn't that right?

16 A. We'd sometimes receive feedback outside of gHire, but it  
17 was not entered, to my knowledge, in the gHire system, correct.

18 Q. So I just want to make sure it's clear. It's a yes-or-no  
19 question. You know that none of the four interviewers provided  
20 feedback into the gHire systems for Ms. Rowe, correct?

21 A. I don't recall them having entered it the last time I saw  
22 the system.

23 Q. And you yourself did not make any notes, written notes or  
24 typed notes, of any informal feedback you may have received  
25 from interviewers, correct?

NACHRow6

Vardaman - Direct

1 A. I believe that's correct.

2 Q. And you yourself did not do anything to document any  
3 internal feedback you may have received, correct?

4 A. That is correct.

5 Q. And you didn't share any informal feedback you may have  
6 received with Mr. Shaukat, isn't that right?

7 A. I — I don't recall. I don't think so.

8 Q. And Mr. Shaukat didn't share with you any feedback that he  
9 may have reviewed, correct?

10 A. No.

11 Q. No, that's not correct, or no, he didn't share that with  
12 you?

13 A. Sorry. No, I don't recall him sharing that with me.

14 Q. Did anybody tell you that they thought Ms. Rowe was  
15 abrasive?

16 A. No.

17 Q. Did anyone tell you that they thought Ms. Rowe was  
18 cantankerous?

19 A. No.

20 Q. Did anyone tell you that they thought Ms. Rowe was not  
21 Googly?

22 A. No.

23 Q. Did anyone express to you that they had ego concerns about  
24 Ms. Rowe?

25 A. No, not that I recall.



NACHRow6

Vardaman - Direct

1 Q. Do you believe Ms. Rowe to be self-oriented?

2 A. Not that I recall.

3 Q. Did anyone communicate to you that they thought Ms. Rowe  
4 was self-oriented?

5 A. No, not that I recall.

6 Q. And had Mr. Shaukat ever told you that he had gotten that  
7 sort of feedback about Ms. Rowe?

8 A. No, he wouldn't have shared something like that with me.

9 Q. Let's look at Plaintiff's Exhibit 111.

10 Now, you're familiar with the Thrive system at Google,  
11 correct?

12 A. Yes, ma'am, I am.

13 Q. And Thrive is another system that recruiters use at Google,  
14 is that right?

15 A. That is correct.

16 MS. GREENE: Now, if we can go to the second page —  
17 actually, if you could go back to the first page, Mr. Yang.

18 Q. You see where it says "related to" and then it says  
19 "candidate information for Ulku Rowe"? Do you see that?

20 A. Yes, yes.

21 Q. So this is a Thrive printout related to Ms. Rowe, is that  
22 right?

23 A. That is correct.

24 MS. GREENE: Let's go to the second page of this  
25 document, and if we can call out the financial services

NACHRow6

Vardaman - Direct

1 vertical lead.

2 Q. This is the vertical lead position for which you were the  
3 recruiter, correct?

4 A. That is correct.

5 Q. And on January 7, 2019, the status moved to rejected due to  
6 panel Googliness, correct?

7 A. That is what it says.

8 Q. And it says — has the following note: "Across the board,  
9 Ulku was viewed as overly self-oriented. Recruiter expressed  
10 she was not qualified for the role in addition to ego concerns.  
11 The decision was made to run her through the full panel  
12 anyway."

13 Do you see that?

14 A. I do see that.

15 Q. And that's what you wrote in Thrive on January 7, 2019,  
16 correct?

17 A. I believe I said I did not recall writing this. Given that  
18 my name is next to it, it's leading me to believe that I did  
19 write that, and this is not my best work.

20 Q. Now, this — if we can take that down for a second,  
21 Mr. Yang.

22 This shows all of the positions for which Ms. Rowe has  
23 been considered at Google, correct?

24 A. Up until the date it was run, that is correct.

25 Q. So any recruiter in the future would be able to look at

NACHRow6

Vardaman - Direct

1 this and see the notes from her prior interactions with other  
2 roles at Google, correct?

3 A. Not any recruiter. A very limited number of executive  
4 recruiters. They would have access to it, but whether or not  
5 they were involved in process would come down to the hiring  
6 manager, the decision-maker, for a given requisition.

7 Q. One of the purposes of this document was to create a record  
8 of past consideration for roles so that in the future someone  
9 would be able to look back on it, correct?

10 A. That is correct.

11 Q. Now, you understood that Ms. Rowe was not ready for the  
12 VP-level role, but a decision was made to run her through the  
13 process anyway, correct?

14 A. At which point in time?

15 Q. At the time she was put into the process, there was an  
16 understanding that she wasn't VP ready, but they were still  
17 going to run her through the process, correct?

18 A. I recall that being my perspective.

19 Q. Now, as a side note, you were involved in recruiting  
20 Mr. Breslow too, weren't you?

21 A. For a separate and distinct search, yes.

22 Q. So Mr. Breslow was not recruited for the financial services  
23 vertical lead position, correct?

24 A. It was a managing director of compliance role, as I recall,  
25 that is correct.

NACHRow6

Vardaman - Direct

1 Q. And that's a different position altogether?

2 A. It is.

3 Q. And Mr. Breslow was never interviewed in connection with  
4 the financial services vertical lead role, correct?

5 A. I can't speak to whether he was ever interviewed. He did  
6 not come through my process for this role at this juncture.  
7 This role, again, was ultimately canceled.

8 Q. Now, on January 22, 2020, you were interviewed by Google's  
9 employee relations team in connection with Ms. Rowe's lawsuit,  
10 correct?

11 A. I had no idea what I was interviewing with ER for at the  
12 time. Looking back on it, yeah, I guess that's a fair  
13 statement.

14 Q. Well, you do recall speaking with employee relations in  
15 January — January 22, 2020, correct?

16 A. I recall it being early in 2020, yes, ma'am.

17 Q. And the focus of those conversations were centered on  
18 Ms. Rowe, correct?

19 A. They were on a wide variety of topics, as I recall.

20 Q. You were interviewed again a week later on January 29,  
21 2020, correct?

22 A. I think the second meeting was also in January, perhaps  
23 early February.

24 Q. And although you may not have known at the outset of the  
25 meeting that it was about Ms. Rowe, the content of the

NACHRow6

Vardaman - Direct

1 conversation centered on Ms. Rowe as a topic, correct?

2 A. I believe there were questions that led me to think that  
3 there — that might have been, yeah, a topic.

4 Q. And you were interviewed by employee relations because you  
5 were the recruiter for that role, right?

6 A. I think so. Yeah, I think that's why they reached out to  
7 me.

8 Q. OK. Let's go to Plaintiff's Exhibit 108.

9 MS. TOMEZSKO: Your Honor, may we have a brief  
10 sidebar? I just want to clarify the Court's earlier ruling.

11 (Continued on next page)

12

13

14

15

16

17

18

19

20

21

22

23

24

25

NACHRow6

Vardaman - Direct

1 (At sidebar)

2 MS. TOMEZSKO: I just wanted to make sure, like, did  
3 we actually — was there a ruling — I simply can't remember —  
4 that this comes?

5 THE COURT: I may have to talk to you guys.

6 MS. GREENE: You read a ruling into the record this  
7 morning.

8 THE COURT: Yes, I know, but there were some follow-up  
9 questions.

10 MS. TOMEZSKO: That's exactly my confusion.

11 MS. GREENE: I think it was with reference to P57. I  
12 think an order had been entered with respect to P108.

13 THE COURT: You guys come over here one second.

14 MS. TOMEZSKO: I apologize.

15 THE COURT: No, it's all right.

16 (Discussion off the record)

17 THE COURT: Yes, the whole document comes in. It was  
18 ruled earlier that the whole document will come in. Thanks.

19 MS. TOMEZSKO: Thank you.

20 (Continued on next page)

21

22

23

24

25

NACHRow6

Vardaman - Direct

1 (In open court; jurors present)

2 MS. GREENE: OK. If we can publish 108 to the jury,  
3 please. Now, if we can go to page 17 of this document.

4 Actually, I'm sorry, if we can go back to page 15 of  
5 this document.

6 BY MS. GREENE:

7 Q. And if you look at the bottom, it says: "Meeting with  
8 Stuart Vardaman January 22, 2020, 1 p.m. Pacific, via GVC,  
9 Ashley lead, Jordan notes."

10 Do you see that?

11 A. I do.

12 Q. Were Ashley and Jordan the ER representatives with whom you  
13 met on January 22, 2020?

14 A. They must have been.

15 Q. And do you recall Ms. Jordan taking notes of your meeting?

16 A. Yeah, I recall someone taking notes.

17 Q. OK. Let's go now to page 17.

18 Do you see the section, the bullet, that second bullet  
19 and its sub-bullets — can you call that out, Mr. Yang —  
20 that's what you shared with ER on January 22, correct?

21 A. That is the synthesis of the notetaker, what he wrote —  
22 what he or she wrote down.

23 Q. "It was shared with me that she was not senior enough,  
24 didn't have the network, but we should put her through the full  
25 process anyway," correct?

NACHRow6

Vardaman - Direct

1 A. I recall that being my personal thinking.

2 Q. Well, shared with you, correct?

3 A. That's what the notetaker took down, ma'am. I can't speak  
4 to that.

5 Q. Let's go down to the fifth bullet, its sub-bullets, and  
6 pull that out.

7 Now, that line "Ulku, by the time connected with her  
8 struck me as a bit abrasive," that's what you told ER, correct?

9 A. I believe I testified that I did not recall using that word  
10 specifically. What I was trying to impart was that over the  
11 course of my meeting with Ulku, I felt disrespected, and  
12 whatever notes or words the notetaker took down, again, I can't  
13 speak to.

14 Q. So you don't remember if you did or did not use the word  
15 "abrasive"?

16 A. No, I don't recall.

17 Q. Now, if we can go down to the second to last bullet on this  
18 page, you were asked if you remembered what the feedback from  
19 the other interviews were, and you said: "Not senior enough.  
20 Expectation that she should have driven more value. Everything  
21 was pretty lackluster."

22 Is that what you told ER?

23 A. Again, those were the notes that were taken down. I think  
24 what — where this came from was what I mentioned earlier about  
25 sometimes feedback coming from outside the gHire system, and



NACHRow6

Vardaman - Direct

1 that is what I was providing there, my recollection on it.

2 Q. You were interviewed again on January 29, correct?

3 A. Yeah, I think that's the date you mentioned earlier, yes,  
4 ma'am.

5 MS. GREENE: Now let's go to page 12 of this document,  
6 if we could, please.

7 Q. Just so I'm clear, before we do that, that feedback that  
8 you said came into you through means other than gHire, again,  
9 that wasn't actually written down or documented anywhere,  
10 correct?

11 A. I really don't recall.

12 Q. Now, if we can look to the third bullet under the  
13 January 29, 2020, meeting, you said you ended up — well, you  
14 recall Tariq saying do a full panel, and we need everything in  
15 the system. Is that accurate?

16 A. For every search we try to get everything in the system,  
17 so. . .

18 Q. But with respect to Ms. Rowe, is it accurate you said,  
19 "Going through the emails with Peter, mentioned the panel  
20 members, and then it is interesting because you recall Tariq  
21 saying do a full panel and we need everything in the system"?

22 That's what you told ER, correct?

23 A. In sum and substance, I suppose, but for every single  
24 process that we run for every candidate, we really try to get  
25 the feedback in the system.

NACHRow6

Vardaman - Direct

1 Q. And is it always interesting when you're asked to do that?

2 A. I don't recall —

3 MS. TOMEZSKO: Objection.

4 A. — using the word.

5 THE COURT: Sustained.

6 Q. OK. You then ended up spending three to four weeks chasing  
7 folks for feedback. Do you see that?

8 A. Yes, I do.

9 Q. Then you say: "This came in from a ping. History not  
10 turned on. Ulku is not ready, is junior, would have expected  
11 more."

12 Now, what's a ping?

13 A. It's Google's internal instant messaging platform. We call  
14 it ping, although it's called something else.

15 Q. And you told ER that the history wasn't turned on for  
16 pings, correct?

17 A. That's correct.

18 Q. And the significance of the history not being turned on is  
19 that there would not be any record of any alleged pings,  
20 correct?

21 A. No. I didn't have — that's a setting that each user has,  
22 and I didn't keep my history turned on.

23 Q. So you had no way to go back to look at those pings to see  
24 what they said, correct?

25 A. That would be correct, yes, ma'am.

NACHRow6

Vardaman - Direct

1 Q. And you didn't make any notes of the alleged pings when  
2 they came in, correct?

3 A. That is correct. When I receive feedback like that —  
4 again, it's not unusual to receive feedback outside the system  
5 — we direct our panel members to go to gHire and put it in the  
6 system.

7 Q. You didn't note in any of your weekly update charts to  
8 Mr. Shaukat that you had gotten feedback from panelists via  
9 ping, correct?

10 A. I don't recall.

11 Q. And you didn't tell him exactly what the feedback was that  
12 you got either, correct?

13 A. Like in a live conversation?

14 Q. Well, you shared and you testified earlier that you didn't  
15 share with Mr. Shaukat any feedback that you received. Is that  
16 still your testimony?

17 A. I believe I said I didn't recall.

18 Q. But more than a year later after those pings you say came  
19 through, you were telling ER about the negative feedback that  
20 you'd supposedly gotten from panelists via ping, right?

21 A. I was telling them what I recalled from — from those  
22 pings, correct.

23 MS. GREENE: If we can go to page 15, and if we can  
24 pull out the first full bullet, "does anything stand out to  
25 you"

NACHRow6

Vardaman - Direct

1 Q. So here, at the end of the interview, your second  
2 interview, you were asked a general question: "Does anything  
3 stand out to you about financial services lead process that was  
4 out of the ordinary or a flag, so to speak?" You said: "It  
5 wasn't out of the ordinary. I think he treats people well."

6 Talking about Mr. Shaukat there?

7 A. Yes, I would have.

8 Q. And you say: "I recall by the time Ulku met with me, she  
9 was bristly with me."

10 Is that what you told ER in response to their question  
11 about whether anything else stood out for you?

12 A. I believe that I said and I testified that I didn't recall,  
13 again, using a word, that word or the previous words that  
14 you've highlighted. I was trying to convey that I felt  
15 disrespected as a result of meeting with Ulku.

16 Q. Did you note that anywhere besides in your conversation  
17 with ER?

18 A. Again, that's someone taking notes and synthesizing what  
19 I'm saying. And no, everything that I tried to document was  
20 for the benefit of candidates. I think you see that in the  
21 prep note to panel members.

22 Q. So, to be clear, when you felt disrespected by Ms. Rowe,  
23 you didn't document that anywhere, correct?

24 A. I don't — I don't recall.

25 Q. You didn't make a complaint to HR, did you?

NACHRow6

Vardaman - Direct

1 A. Feeling disrespected, I don't believe, is protected, a  
2 feeling.

3 Q. You didn't tell Mr. Shaukat that you felt disrespected by  
4 Ms. Rowe, did you?

5 A. Again, I was trying to position Ms. Rowe in the best  
6 possible light so that, as she went through panels, she had the  
7 best possible chance to show up in the best possible way that  
8 only she could do.

9 Q. So did the fact that you felt disrespected by Ms. Rowe play  
10 any part in how you considered Ms. Rowe's candidacy for the  
11 financial services vertical lead position?

12 A. Objectively, no, I don't think so.

13 Q. Do you recall, when meeting with ER, referring to Ms. Rowe  
14 as cantankerous?

15 A. That's another one, no, I did not. I do not recall.

16 MS. GREENE: OK. We can take this down. Actually,  
17 I'm sorry, Mr. Yang, if you can put that back up for one more  
18 minute, and if we can go ahead back to the January 29 entry.

19 Q. And if you can look on page 13, the section "So you were  
20 involved in Stuart recruitment." Do you see that?

21 A. Yes, I do.

22 MS. GREENE: OK. Let's pull that out.

23 Q. And this is discussing Stuart Breslow versus Ms. Rowe,  
24 correct?

25 A. I'm sorry. Can you repeat that again.

NACHRow6

Vardaman - Direct

1 Q. The subject of discussion here with ER was about  
2 Mr. Breslow and Ms. Rowe, correct?

3 A. It looks like it was primarily about Mr. Breslow.

4 (Continued on next page)

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

NACVROW7

Vardaman - Direct

1 BY MS. GREENE:

2 Q. Okay. And you told ER that Ms. Rowe's risk technology  
3 group and not as broad as Stuart. And then you said, coupled  
4 with Ulku's cantankerous style further undermined her changes.  
5 Is that supposed to be chances?

6 A. I didn't take those notes. You keep saying that I said  
7 these things. I don't recall using that word. That was  
8 someone else taking those notes.

9 Q. Okay. That's what ER wrote down in response to your  
10 conversation with them; correct?

11 A. I guess.

12 MS. GREENE: Okay. We can take that down, please.

13 Q. Now, those notes we were just looking at were January 29th,  
14 2022; correct?

15 A. Was that the second date?

16 Q. Yes.

17 A. Okay.

18 Q. You heard from Ms. Rowe less than a week after that  
19 interview on February 4th, 2020; correct?

20 A. I don't recall the specific dates. Something tells me  
21 you're about to show me something that will reinforce that  
22 date.

23 Q. Well, let's go to P-101. And does this refresh your  
24 recollection as to -- well, not refresh your recollection, but  
25 do you see here that on February 1st, 2020, Ms. Rowe reached

NACVROW7

Vardaman - Direct

1 out to you?

2 A. February 4th, yes. Yes, ma'am.

3 Q. So this is less than a week after you just had your second  
4 interview with ER about Ms. Rowe's consideration for the  
5 financial services vertical lead position; correct?

6 A. I believe you're drawing a line between two unrelated  
7 events.

8 Q. I'm simply asking about the timing. This is less than a  
9 week after the second of two interviews you had with ER;  
10 correct?

11 A. February 4th does strike me as later in time than January  
12 29th.

13 Q. Less than a week in time; correct?

14 A. Correct.

15 Q. And Ms. Rowe was reaching out about the VP financial  
16 services sales position; correct?

17 A. That is correct.

18 Q. And you were the lead recruiter for that role; is that  
19 right?

20 A. That is correct.

21 Q. And Kirsten Kliphouse was the hiring manager?

22 A. She was indeed.

23 Q. And in response to Ms. Rowe's request here, you sent her  
24 the job description for that role; correct?

25 A. Yes, I believe it was a draft at the time.



NACVROW7

Vardaman - Direct

1 Q. Now, you only had one conversation with Ms. Kliphouse about  
2 Ms. Rowe; correct?

3 A. I don't recall the specific number of conversations, I  
4 really don't.

5 Q. Well, do you recall having testified at your deposition  
6 about a conversation you had with Ms. Kliphouse?

7 A. I recall letting her know that Ulku is interested in the  
8 role. I do.

9 Q. And do you recall saying that -- well, did you tell  
10 Ms. Kliphouse that Ms. Rowe had contacted you?

11 A. That probably came up by the time I was connecting -- and I  
12 was connecting with Ms. Kliphouse regularly, or semi regularly.  
13 I -- yes, at some point in time after Ulku reached out, I would  
14 have surfaced that with the hiring manager, Ms. Kliphouse.

15 Q. And Ms. Kliphouse confirmed that she and Ms. Rowe had had  
16 coffee; isn't that right?

17 A. As I recall, by the time I had reached out, Kirsten had  
18 mentioned -- Ms. Kliphouse had mentioned that she had coffee  
19 with Ulku; correct.

20 Q. And as of the time of your deposition, that's the only  
21 conversation you recalled having with Ms. Kliphouse about  
22 Ms. Rowe; correct?

23 A. I believe that's right.

24 Q. Now, you had a call with Ms. Rowe eventually with respect  
25 to this position; correct?

NACVROW7

Vardaman - Direct

1 A. Yes.

2 Q. And that was later in February?

3 A. Yes.

4 Q. Now, in between the time that you sent Ms. Rowe the job  
5 description and the videoconference you had with her -- was it  
6 a videoconference?

7 A. It was a videoconference.

8 Q. You didn't do anything to find out about Ms. Rowe's  
9 qualifications for this position; correct?

10 A. That is correct. I recall providing that testimony in the  
11 deposition.

12 Q. And you didn't do anything to find out about her  
13 qualifications not just for this position, but at all; correct?

14 A. It would have been relative to this specific position I was  
15 working on. No, I don't believe I had another conversation  
16 with Ulku, no. Ms. Rowe.

17 Q. And you can't remember whether you even looked at her  
18 LinkedIn profile between the time you sent her the financial  
19 services sales -- VP sales financial services job description  
20 and the time you told her she wasn't going to be considered;  
21 isn't that right?

22 A. As a matter of process, I am sure I looked at her LinkedIn  
23 profile. Ultimately, by the time I raised Ms. Rowe's candidacy  
24 to Ms. Kliphouse, Ms. Kliphouse said they had met for coffee  
25 and that she wanted me to focus on another candidate.

NACVROW7

Vardaman - Direct

1 Q. You didn't testify at your deposition about Ms. Kliphouse  
2 telling you that she wanted to focus on another candidate, did  
3 you?

4 A. No, I did not.

5 Q. So that's new testimony; correct?

6 A. Yeah, I guess you can say that.

7 Q. And do you recall me at your deposition asking you to tell  
8 me everything about the conversation you had with  
9 Ms. Kliphouse?

10 A. Yes, ma'am. "Everything" is quite big.

11 Q. And do you recall me asking you at your deposition if you'd  
12 had any other conversations about Ms. Rowe that you hadn't  
13 testified to? Do you recall me asking you that?

14 A. I do. I was quite nervous and ready to jump off the video.

15 Q. Okay. So you remember now today what you didn't remember  
16 three years ago, when it was the same year in which this had  
17 happened, is that what you're saying?

18 A. Yes.

19 Q. And when you were deposed in 2020, do you recall giving  
20 testimony about whether you'd reviewed her LinkedIn profile?

21 A. I don't recall.

22 Q. So do you or do you not have a specific recollection of  
23 even just looking at her LinkedIn profile before you had a  
24 videoconference where you told her she wasn't going to be  
25 considered?

NACVROW7

Vardaman - Direct

1 A. Again, as a matter of process, I would have looked at her  
2 LinkedIn profile. I do not have a specific recollection of  
3 having done that for that search, no, ma'am.

4 Q. Now, it would have been impossible for you to tell  
5 Ms. Kliphouse anything about Ms. Rowe's qualifications or  
6 experience or background or expertise or reputation or network  
7 when you didn't know anything about those things yourself;  
8 correct?

9 A. I had assumed that Ms. Rowe was the best -- she was the  
10 best possible person -- person, excuse me, to talk about her  
11 background with the hiring manager.

12 Q. Did you set up an interview for Ms. Rowe with  
13 Ms. Kliphouse?

14 A. No, I did not.

15 Q. Did you set up a telephone conversation with Ms. Rowe and  
16 Ms. Kliphouse?

17 A. No, I did not. Ms. Kliphouse, again, told me that she had  
18 connected with Ulku over coffee.

19 Q. Did she tell you how long that had lasted?

20 A. I don't recall.

21 Q. Did she tell you whether they discussed her qualifications?

22 A. I don't recall.

23 Q. But again, you weren't in a position to tell Ms. Kliphouse  
24 anything because you didn't know anything about her  
25 qualifications, experience, background, expertise, reputation,

NACVROW7

Vardaman - Cross

1 network, anything; correct?

2 A. When it comes to internal Googlers, my job is to take their  
3 interest to the hiring manager and then go from there.

4 Q. Do you recall testifying at your deposition that your basis  
5 for determining that Ms. Rowe was not qualified to be  
6 considered for the VP role was largely driven by her comparison  
7 to external candidates?

8 A. I believe so, yes.

9 Q. You would agree, wouldn't you, that it would have been  
10 impossible to do a fair comparison of Ms. Rowe to anyone if you  
11 or Ms. Kliphouse did not know anything about Ms. Rowe's  
12 experience or qualifications or background or expertise or  
13 reputation or network; correct?

14 A. I was told to focus on other candidates, and I did.

15 MS. GREENE: No further questions.

16 THE COURT: Ms. Williams, can we have some water for  
17 the witness.

18 CROSS-EXAMINATION

19 BY MS. TOMEZSKO:

20 Q. Good afternoon, Mr. Vardaman.

21 A. Good afternoon.

22 Q. Earlier Ms. Greene played some clips from your deposition.  
23 Do you recall that?

24 A. I do.

25 Q. Is that your first time sitting for a deposition?

NACVROW7

Vardaman - Cross

1 A. It was.

2 Q. And I think earlier you said you were nervous; is that  
3 right?

4 A. Very.

5 Q. Are you nervous now?

6 A. I am.

7 Q. And you have mentioned previously that the trial date had  
8 been moved, and the reason that you did not come was because  
9 your kids were starting school; is that right?

10 A. That's right. I wasn't going to miss my kids' first week  
11 of school. And I saw that it moved.

12 Q. Where do you live, Mr. Vardaman?

13 A. Austin, Texas.

14 Q. Would you have had to have traveled out of state to arrive  
15 here during the first week of your kids' school?

16 A. I would have, yes.

17 Q. Are you still employed at Google?

18 A. I am not.

19 Q. When did you leave Google?

20 A. It would have been January of 2022.

21 Q. Earlier Ms. Greene played some testimony for you and asked  
22 whether you knew anything about Ms. Rowe's background. Do you  
23 remember that testimony?

24 A. I do.

25 Q. Was that the only time Ms. Greene asked you that question

NACVROW7

Vardaman - Cross

1 in that deposition?

2 A. I don't think so.

3 Q. Do you recall whether she asked you that question later in  
4 the deposition?

5 A. I believe that's correct.

6 Q. And do you recall what you testified to when you were asked  
7 subsequently that question?

8 A. Yes, that we spent time on her background.

9 Q. When you say you spent time on her background, what  
10 precisely are you referring to there?

11 A. That's essentially everything leading up to that point. So  
12 her career history, her even joining Google, education history,  
13 all that stuff.

14 Q. In relation to the process that you ran for Ms. Rowe, when  
15 did that conversation occur?

16 A. In relation to the process?

17 Q. Correct.

18 A. So that was before -- so after I was instructed to involve  
19 Ms. Rowe in process, I scheduled a meeting with her as a get to  
20 know each other, get to know her background, so that I could  
21 write the prep note to the panel members that I ultimately  
22 ended up writing.

23 Q. Is that your standard process for a requisition like this?

24 A. It is. I do think for a external candidate it would have  
25 been a much deeper dive. But after the decision had been made

NACVROW7

Vardaman - Cross

1 to put Ms. Rowe in process, my job was to make that happen.

2 Q. I want to just step back for a second and let's talk about  
3 your role in the recruiting process at Google around this time.

4 So now we're talking about 2018, okay? I think you  
5 had referenced earlier that you said you are the steward of the  
6 process; is that right?

7 A. That's how I think of myself, yes.

8 Q. Can you explain a little bit more about that and what that  
9 means for your role in the process?

10 A. Yeah. So the recruiting process at Google is pretty  
11 straightforward. But there's a lot of nuance based upon the  
12 panel members that we're trying to schedule and all that stuff.  
13 So a lot of what I end up doing or recruiters at Google end up  
14 doing is managing, trying to manage a candidate's expectations  
15 as to what the process will look like as it unfolds. It can  
16 take some time.

17 Q. Who decides in the recruiting process which candidates are  
18 put through the interview process for an open role?

19 A. The hiring manager.

20 Q. Who decides which candidates get an offer for an open  
21 position?

22 A. That would be on the heels of panel interview feedback.  
23 And there would be a targeted candidate on the heels of going  
24 through the entire process.

25 Q. And who makes the decision about which candidate -- the



NACVROW7

Vardaman - Cross

1 targeted candidate is going to get the offer?

2 A. That would be the hiring manager, after soliciting and  
3 reviewing the feedback from the rest of the panel members.

4 Q. As a recruiter at Google, do you have any authority to  
5 determine which candidates go through the interview process?

6 A. I don't. Definitely not for internals.

7 Q. And as a recruiter at Google, do you have any authority to  
8 make hiring decisions for the open positions that you're asked  
9 to fill?

10 A. I do not.

11 Q. And was that true for the positions that you were filling  
12 in Tariq Shaukat's organization in 2018, as well?

13 A. Correct.

14 Q. Do you recall for how long the open -- the opening for the  
15 financial services vertical lead role, how long that was open?

16 A. I want to say at least a year, almost the entirety of 2018.

17 Q. Did you focus on external candidates for the role before  
18 turning your attention to internal candidates?

19 A. There were external -- yes, we started looking external.  
20 And then by the time Ms. Rowe was involved, we had internals  
21 and externals involved in that, in that search, yes.

22 Q. Is there a reason that you focus on external candidates  
23 first before turning to internal candidates?

24 A. I think given the scope and scale of the search, we were  
25 looking for candidates that would allow us to catch up from a

NACVROW7

Vardaman - Cross

1 market perspective in the Google Cloud organization. We were  
2 looking for candidates who essentially could ask giant  
3 corporations in the financial services industry for business.

4 Q. And the candidates that you are considering for this  
5 financial services vertical lead role, did all of them get to  
6 the step of going through panel interviews?

7 A. No.

8 Q. Were there some that did not even get interviews at all?

9 A. That is correct.

10 Q. Typically, how many interviewers are on a panel for those  
11 that make it to that step in the process?

12 A. We try to have at least four. We want to be cognizant of  
13 what we call interview fatigue. We don't want to put people  
14 through 15 interviews. We try to manage it. And that  
15 typically manifests about four panel members.

16 Q. And do you recall how many panel interviewers interviewed  
17 Ms. Rowe for the financial services vertical lead role?

18 A. I believe it was four.

19 Q. Did all of the candidates that went through the panel  
20 interview step get to meet with Diane Greene?

21 A. No.

22 Q. And who is Diane Greene?

23 A. Diane Greene was the CEO for Google Cloud at the time.

24 Q. Do you recall how many candidates got the chance to meet  
25 with Diane Greene?

NACVROW7

Vardaman - Cross

1 A. I believe it was two.

2 Q. And who were they?

3 A. Both females. One by the name of Ranjanna Clark, and the  
4 other by the name of Diana Leyfield.

5 Q. Was Ms. Rowe scheduled to meet with Diane Greene, to your  
6 knowledge?

7 A. She was indeed.

8 Q. Can you describe your experience in trying to get time on  
9 Diane Greene's calendar?

10 A. Next to impossible. Truly. She was running a -- at that  
11 time I think Cloud was a \$5 billion organization. She was  
12 reporting into Sundar Pichai. He's the CEO of Alphabet. It  
13 was exceptionally difficult to get on her calendar. And as I  
14 recall at the time and toward the end of that year, it was  
15 announced at some point that Diane Greene was going to be  
16 stepping out and a gentleman by the name of Thomas Kurian was  
17 going to be taking over as CEO of Google Cloud.

18 Q. Now, you said Ms. Rowe was scheduled to meet with  
19 Ms. Greene. But do you know whether she, in fact, did meet  
20 with Ms. Greene?

21 A. I believe that meeting was canceled.

22 Q. And do you know why it was canceled?

23 A. I think because Diane was stepping out of the organization  
24 and wasn't going to be there anymore.

25 Q. Was the process that you ran for Ms. Rowe for the financial

NACVROW7

Vardaman - Cross

1 services vertical lead role any different than the process you  
2 ran for other candidates for that role?

3 A. I did a deeper dive with the external candidates than I did  
4 on the get-to-know-you, get-to-know-your-background  
5 conversation than I did with Ms. Rowe. But everything else  
6 would have been the same.

7 Q. Why did you do a deeper dive on the external candidates?

8 A. I think the philosophy at Google is that if someone wants  
9 to, you know, run at a role, and the hiring manager, if he or  
10 she is supportive of that candidate, then the notion is to let  
11 them run and try to show up as best as possible to the panel.

12 Q. Now, earlier you mentioned you had had a conversation with  
13 Ms. Rowe at the beginning of the process. Do you recall  
14 approximately how long that conversation lasted?

15 A. I believe over the course of the testimony and as a result  
16 of my process, I would have ballparked about 45 minutes.

17 Q. And again, what was the purpose of you reaching out to  
18 Ms. Rowe for that conversation?

19 A. Really it was to let her know the process, that we were --  
20 essentially provide insight on the process that we were going  
21 to run with her. It is a little bit different because she was  
22 internal, so she was going to launch into panel just as quickly  
23 as we could schedule it. And as I mentioned earlier, the  
24 reason I wanted to spend time with her was to get enough  
25 information so that I could send the prep note that was

NACVROW7

Vardaman - Cross

1 displayed earlier.

2 Q. I'd like to show you a document, Mr. Vardaman.

3 MS. TOMEZSKO: Can we pull up Plaintiff's 35, please.

4 Q. Mr. Vardaman, do you recognize this document?

5 A. I do.

6 Q. And what is it?

7 A. It's the -- it's the prep note it looks like I sent to

8 Darryl Willis. Lisa Orr is his EVP.

9 Q. And is this the same prep note that you were just

10 testifying about?

11 A. Yes, it even looks -- the competencies might have been a

12 little bit different. As a matter of practice, we ask panel

13 members to focus on different competencies, at least two each

14 time, so that there's some degree of overlap in case they don't

15 get to both competencies.

16 Q. And when you say "competencies," what in this email are you

17 referring to when you use the word "competencies"? Can you

18 point us to what it is you're referring to there?

19 A. Yes. So it's the second bullet under context and

20 competencies. It says: Please assess role-related knowledge.

21 And I think it's such a bad name, but GCA stood for general

22 cognitive ability, strategic thinking.

23 Q. I'm sorry, I didn't mean to interrupt.

24 Are those also known as rubrics within Google?

25 A. Those were the competencies. Regardless of which level, we

NACVROW7

Vardaman - Cross

1 had four main competencies at Google. Those are two of them.  
2 And they were defined based upon the level of the given role.  
3 So yeah, rubric, matrix, but yes.

4 MS. TOMEZSKO: Now, I'd like to switch quickly to  
5 another document. It's Plaintiff's 151.

6 Jean, can you please pull that up.

7 Q. Mr. Vardaman, do you recognize this document? If it would  
8 be helpful for us to scroll through to make sure that you know  
9 what it is you're looking at I'm about to ask you about, we're  
10 happy to do so.

11 A. Wait. But the first page was for a role I didn't  
12 recognize.

13 MS. TOMEZSKO: Can we go back to --

14 A. Back to the first page.

15 Q. This page here?

16 A. I'm just looking for where the title for the role would be.

17 Q. Let's flip to the second page.

18 A. Sorry.

19 Q. No problem.

20 A. Been a while since I looked at this.

21 Financial services vertical lead. Got it.

22 Q. What is this document?

23 A. So this is an output from gHire. And so this -- this would  
24 be on the heels of a panel interview. We would take  
25 information here. In this case it would show who the panel

NACVROW7

Vardaman - Cross

1 members were, how they were -- how they rated the candidate.

2 And then that would go into what we call the packet. The  
3 packet would ultimately be submitted to hiring committee, and  
4 hiring committee would say yay or nay.

5 MS. TOMEZSKO: If we could just slowly scroll through  
6 a couple pages. Okay. Let's stop here for a second.

7 Q. Do you see here where it says n/a, not answered. Interview  
8 questions asked, not answered. Do you see that?

9 A. I do.

10 Q. What do you conclude from the absence of that information  
11 in this packet?

12 A. I'm not sure what I can conclude from it aside from the  
13 fact that I believe that's under Mr. Willis's heading that  
14 Mr. Willis had not entered his feedback.

15 Q. Is that atypical for the processes that you ran at Google,  
16 when Mr. -- at least in Mr. Shaukat's organization in 2018?

17 A. I can say across Google this is very common.

18 MS. TOMEZSKO: If we could flip another page, Jean,  
19 please. Okay, I just want to stop here for a second.

20 Q. Do you see in the middle of the page the name Jason Martin?

21 A. I do.

22 Q. And does this indicate to you that we're about to get to  
23 the portion of the packet or the document that would reflect  
24 Jason Martin's entry into gHire?

25 A. Yes.

NACVROW7

Vardaman - Cross

1 MS. TOMEZSKO: Can we go to the next page, please,  
2 Jean.

3 Q. And do you see what's on the screen, Mr. Vardaman?

4 A. I do.

5 Q. What are those? What are these words we're looking at?

6 A. These -- I believe it's titled just -- it's the interview  
7 notes. Some executives get a head start on entering feedback,  
8 and so they will either, in the course of an interview or  
9 immediately after, start typing in notes because they know that  
10 we're going to follow up with them pretty quick and ask for  
11 them to put them in.

12 Q. Now, do you see right under interview notes where it says  
13 "leadership includes," do you see that?

14 A. I do see that.

15 Q. What does "leadership includes" refer to?

16 A. So leadership would be the competency, includes would be a  
17 key aspect of that competency. So like inclusive leadership.

18 Q. So one of the competencies or rubrics that we talked about  
19 earlier?

20 A. Correct. So under the four main headings of competencies,  
21 with the exception of RRK, role-related knowledge, leadership,  
22 I think, had three forms of leadership.

23 Q. And right below that it says CGA strategic mindset. Do you  
24 see that?

25 A. I do. That's general cognitive ability. And the



NACVROW7

Vardaman - Cross

1 sub-competency underneath that main heading was strategic  
2 mindset.

3 Q. Is that the same CGA acronym that you referred to earlier  
4 when we were looking at the prep document?

5 A. Yeah, GCA, yeah.

6 Q. Thank you. I switched it around.

7 Mr. Vardaman, if an interviewer enters information  
8 into gHire but does not submit the feedback, it is in draft  
9 form; is that right?

10 A. That is correct.

11 Q. Do you have access to the draft notes in gHire as the  
12 recruiter for the role?

13 A. I do not. That is locked down.

14 Q. I also want to show you some of the similar documents that  
15 we've seen -- or that we were just looking at for two of the  
16 other names that you mentioned.

17 MS. TOMEZSKO: And I just want to pause here because I  
18 want to check and make sure there is no objection to D-71 or  
19 D-70; or if there is, we should figure that out.

20 MS. GREENE: Your Honor, I believe this is a document  
21 that would be subject to a limiting instruction.

22 MS. TOMEZSKO: Can we put it on --

23 THE COURT: D-71, is that what you said?

24 MS. TOMEZSKO: D-71 and D-70. And I believe

25 Ms. Greene is correct that it would be subject to a limiting

NACVROW7

Vardaman - Cross

1 instruction.

2 THE WITNESS: Not supposed to look at it yet.

3 THE COURT: It shouldn't be up for the jury yet.

4 We're going to have to have a sidebar.

5 MS. TOMEZSKO: Sure.

6 (At sidebar)

7 THE COURT: Tell me, I'm not --

8 MS. GREENE: I think this would be subject to the same  
9 limiting instruction about feedback, and that it can be  
10 considered for the impact on the effect of a listener, but as  
11 to the --

12 MS. TOMEZSKO: The truth of the feedback as to that  
13 candidate's qualifications.

14 THE COURT: So you're agreeing on that.

15 MS. TOMEZSKO: Yes.

16 I believe it would be a similar instruction to the one  
17 that you delivered to the jury, I think it was, this morning  
18 about feedback received by Mr. Shaukat and Mr. Vardaman about  
19 Ms. Rowe's candidacy.

20 These are candidates for the same role. And so we  
21 would agree that the same limiting instruction as to the  
22 feedback, that it is offered for the purpose of the effect on  
23 the listener, in this case Mr. Vardaman, and not for the truth  
24 of the substance of the feedback as to that candidate's  
25 qualifications for the role. Are you okay with that?

NACVROW7

Vardaman - Cross

1 MS. GREENE: Yes.

2 MS. TOMEZSKO: Okay.

3 THE COURT: All right. I was going to let them go at  
4 4:30. How much more do you have?

5 MS. TOMEZSKO: Oh, 15 minutes.

6 THE COURT: I don't -- so why don't we call it a day  
7 now for the jury. I'll have this ready in the morning and  
8 we'll start there.

9 MS. TOMEZSKO: Okay.

10 THE COURT: All right.

11 MS. TOMEZSKO: Okay.

12 (Continued on next page)

13

14

15

16

17

18

19

20

21

22

23

24

25

NACVROW7

Vardaman - Cross

1 (In open court)

2 THE COURT: Members of the jury, we're going to  
3 adjourn now for the day. So we thank you again for your  
4 service.

5 I'm going to give my reminders again. Do not discuss  
6 the case with each other. Do not discuss the case with anyone  
7 else. Do not do any research about the case. And keep an open  
8 mind about the evidence until all of it is in.

9 And with that, I wish you a good evening. And please  
10 come back tomorrow morning at 9:15. Thank you.

11 (Jury not present)

12 THE COURT: Mr. Vardaman, you can step down now. And  
13 if you would please leave the courtroom. I need to talk with  
14 the lawyers for a few minutes. Thank you.

15 (Witness not present)

16 THE COURT: All right. Everybody please be seated.

17 All right. I just want to ask a couple of questions  
18 about the Burdis issues.

19 Ms. Williams, can you update us on time?

20 THE DEPUTY CLERK: Oh, that's what I'm doing right  
21 now.

22 THE COURT: Okay. So we'll come back to that.

23 THE DEPUTY CLERK: Yes. I'm putting in the last one.

24 THE COURT: All right. And plaintiff, you'll have for  
25 me some time soon a list of documents and witnesses as to which

NACVROW7

Vardaman - Cross

1 the Bennett issue arises, yes?

2 MS. GREENE: Yes, we'll prepare that as soon as we're  
3 back in the office.

4 THE COURT: Okay. Thank you.

5 Okay. So now for Burdis-related questions, if you  
6 could look at 102B. That is the Google policy titled "Our  
7 Leveling Approach." Do you have it?

8 MR. GAGE: What can I do for you, Judge? What's the  
9 question?

10 THE COURT: I want to ask a question, but I don't  
11 think that Ms. Greene has the document in front of her.

12 MR. GAGE: It's up on the screen, your Honor.

13 THE COURT: Oh, it is. Okay. Okay.

14 In seeking to admit Google's policy titled "Our  
15 Leveling Approach," plaintiff claims that, quote, defendant was  
16 on notice of plaintiff's claims as of January 2019. And to the  
17 extent it failed to maintain spoliated records, it cannot now  
18 rely on its own spoliation to deprive plaintiff of the ability  
19 to enter into evidence Google's policies, especially when  
20 defendant has itself offered into evidence policy documents  
21 dated 2020.

22 What is your response to that?

23 MS. TOMEZSKO: This one is going to be me, your Honor.

24 THE COURT: All right. Ms. Tomezsko.

25 MS. TOMEZSKO: I think it goes to the nature of how

NACVROW7

Vardaman - Cross

1 policies are maintained at Google. As we've explained to  
2 plaintiff's counsel at the beginning of discovery in this case,  
3 these are static pages and they are frequently refreshed and  
4 updated. And we had a great amount of trouble pulling and, we  
5 call it, scraping the system to find all the versions because  
6 they could be updated once a year, once a week, sporadically.

7 And so I wouldn't agree that it was a spoliation  
8 issue. I would agree that we don't have all the versions of  
9 the policy. We do have versions of the policy that exist in  
10 other forms and are stored in other places that are not this  
11 static. It's an internal site.

12 So at Google, you just type in - and I'm just  
13 simplifying this - go/whatever, and it pulls up the policy. So  
14 this is an ever-evolving page that is continuously updated  
15 whenever there is a tweak in the policy.

16 We provided a lot of versions of them, but we provided  
17 what we could find at the time that these were requested. And  
18 as soon as the lawsuit was filed and, in fact, I think before  
19 that even, when we had a demand letter, we issued a legal hold.  
20 And, you know, that was in 2019/2020. And we produced the  
21 policies from 2019/2020, like this one. We also produced any  
22 policies that we could find previously, including one of them I  
23 think was shown to Mr. Lucas. But that is not stored in the  
24 same system as this one.

25 THE COURT: All right. Well, on the subject of

NACVROW7

Vardaman - Cross

1 versions, so the plaintiff has also noted that, quote, this  
2 document is a version of a policy that witnesses will testify  
3 were in place at the time decisions were made. And goes on to  
4 note as an example that, "Ms. Burdis testified that policies  
5 contained within this version of the document were in effect at  
6 the time she made the leveling decision."

7 Which policies exactly?

8 MS. TOMEZSKO: Are you asking me or the plaintiff?

9 THE COURT: Yes.

10 MS. TOMEZSKO: So if I could guess at Ms. Burdis's  
11 testimony, I think the fact that there is a leveling approach,  
12 the fact that leveling has been a system at Google for many  
13 years, I think Mr. Lucas said for the last ten years, that  
14 there is independent review and consistent evaluation of all  
15 candidates. But the details about how that is documented in  
16 the rigor around documentation for that has evolved over the  
17 years.

18 And so I think the issue here, your Honor, is that to  
19 the extent a policy in 2019 or 2020 reflects a more evolved  
20 process, because Google continuously reviews and revisits  
21 these, as does any employer, the fact that there is a policy in  
22 2019 or 2020 that requires something to be recorded at the time  
23 might not have been something in place in 2016 and 2017. And  
24 what I would like to avoid is the jury drawing an inference or  
25 an adverse inference for the absence of information that was

NACVROW7

Vardaman - Cross

1 not required at the time.

2 Certainly the overall policy about generally how  
3 leveling works and the checks and balances that were in place,  
4 I think that's fair. But to the extent that they are going  
5 into details about documentation, they can ask the witnesses  
6 whether the documentation itself was something that was in  
7 place, and the witnesses are perfectly able to testify to that.  
8 But to the extent they can't remember the fact that a policy in  
9 2020 says these are generally recorded, doesn't necessarily  
10 mean that the absence of that recording in 2017 means that a  
11 policy was violated.

12 THE COURT: The concern is how does this not run a  
13 very real risk of causing juror confusion?

14 MS. GREENE: Is that a question for me, your Honor?

15 THE COURT: I'm throwing it out for both sides.

16 MS. GREENE: Because Ms. Burdis testified to what  
17 about this document was consistent with what she was doing back  
18 in 2016. We have her deposition. It's only coming in in the  
19 context of her deposition testimony. So she can and did say  
20 what about this was in play at the time she made the decision  
21 or was involved in the decision, I should say.

22 I mean, your Honor, the fact that Google does not  
23 retain its policies when it has been on notice of the  
24 litigation, right, it could have made screenshots, it could  
25 have saved them elsewhere. It's a leveling case.



NACVROW7

Vardaman - Cross

1           There was also a class action. I know it's not  
2 mentioned, we're not mentioning it in the case at all, but *L.S.*  
3 *v. Google* was in existence long before 2020. And these  
4 documents should have been retained in connection with that  
5 lawsuit, which was only settled -- it was only settled after  
6 discovery in this matter.

7           So the fact that they are saying they don't have the  
8 actual policies at the time is not an issue for plaintiff.  
9 Plaintiff should be able to use what they produced and use it  
10 with the witness who was produced to testify about it. So, you  
11 know, to the extent that there is any prejudice to them, it's  
12 of their own creation by failing to preserve the actual  
13 policies that were in place.

14           THE COURT: Why can't Ms. Burdis simply be questioned  
15 about the policies that were in effect at the time without  
16 admitting P-102B?

17           MS. GREENE: Here's the challenge, your Honor:  
18 Ms. Burdis is testifying by deposition. So it's her  
19 deposition. The document was the document shown to her. She's  
20 testifying about the document that was shown to her. The jury  
21 needs to see the document to understand the questions that were  
22 being asked of her. If, your Honor, we had her here in person,  
23 this would not be an issue, but we don't. And we're relying on  
24 her deposition testimony. And that's the real problem we have.

25           THE COURT: All right. I understand.

NACVROW7

Vardaman - Cross

1           Let me ask a question about one of the designations,  
2 the deposition designations. It's 94, 7 to 12. So just  
3 reading from the transcript:

4 "Q. Do you recall telling ER that some of the candidates that  
5 had come in got down-leveled to a Level 7?

6 "A. I don't recall the exact conversation verbatim, but what  
7 is written here certainly rings true to likely how the  
8 conversation went, yes."

9           So my question is, what is the purpose for which  
10 you're seeking to offer that testimony and why is it not  
11 hearsay?

12           MS. GREENE: Well, your Honor, the document that is  
13 being referenced here and she's being asked about is 108. And  
14 her comments to ER about the down-leveling of an individual,  
15 and she's testifying about -- I asked her a question, who were  
16 the individuals that had been down-leveled? And she answers --  
17 I'm sorry, this was P-57, not P-108.

18           THE COURT: But I don't think that the -- the fact  
19 that P-57 has now been admitted, I didn't think that the  
20 objection to the designation stood or fell based on the  
21 admission of 57. I thought there was a separate objection; is  
22 that right?

23           MS. TOMEZSKO: Let me just short-circuit this, your  
24 Honor.

25           We acknowledge that your ruling on P-57 stands. And

NACVROW7

Vardaman - Cross

1 so it was based on the admissibility of that document.

2 THE COURT: I see.

3 MS. TOMEZSKO: So I think this is a moot point.

4 THE COURT: Okay. So we're down to 102B, as far as  
5 documents go in connection with Ms. Burdis. And I think there  
6 might be some other deposition designations too, is that right,  
7 that you object to?

8 MR. GAGE: In Burdis?

9 THE COURT: Yes.

10 MS. GREENE: Your Honor, we have a proposal with  
11 respect to 102B, given the situation we're in.

12 THE COURT: Yes.

13 MS. GREENE: We would be amenable to some sort of  
14 limiting instruction that allows Ms. Burdis's testimony to come  
15 in. But the jury understands that the document itself is only  
16 being offered in connection with the testimony that she's  
17 providing and should not be considered on its own as proof of  
18 any particular policy. Something along those lines that would  
19 allow the jury to make the distinction it's her testimony about  
20 the policy that's important, not the actual document. But I  
21 don't see any other way to get in her testimony and leave the  
22 document out of it.

23 THE COURT: All right. Google, what do you think  
24 about that? So the document would not be offered for the  
25 truth.

NACVROW7

Vardaman - Cross

1 MS. GREENE: Your Honor, it would be offered as not  
2 for the truth, but for the context in which Ms. Burdis is  
3 answering these questions.

4 MR. GAGE: I'm making this up on the fly. So the  
5 instruction counsel is suggesting, I think, would be something  
6 along the lines of the document was being shown to the jury so  
7 the jury can understand what the witness is speaking about, but  
8 not for purposes of showing --

9 THE COURT: What the policies actually were.

10 MR. GAGE: Policies actually were. Something like  
11 that would work for us, your Honor, to speed this along.

12 MS. GREENE: And I might suggest, your Honor, since  
13 we're in general agreement, perhaps the parties can look at the  
14 actual testimony in the document and work cooperatively to come  
15 up with a limiting instruction for your Honor.

16 THE COURT: All right. Well, thank you. That would  
17 be appreciated, if it's possible.

18 Now, tell me what the lineup is for tomorrow.

19 MS. TOMEZSKO: The million-dollar question, your  
20 Honor.

21 MR. GAGE: We were hoping it was going to start with  
22 Mr. Harteau, but now it's going to start with --

23 THE COURT: We have 15 more minutes with Mr. Vardaman  
24 kicking off with an instruction.

25 MR. GAGE: Re-booking flights.

NACVROW7

Vardaman - Cross

1 THE COURT: Don't look at me. I'm looking at you  
2 guys.

3 MR. GAGE: Judge, we were willing to finish him up  
4 today.

5 THE COURT: No, but I can't --

6 MR. GAGE: I understand.

7 THE COURT: We have not really been sticking to any  
8 kind of schedule with the jury, and I kept them late yesterday,  
9 so --

10 MR. GAGE: My understanding is that Mr. Grannis will  
11 follow Mr. Harteau, or has that changed? Okay. So go straight  
12 to Mr. Grannis. Okay. So we'll go straight to Mr. Grannis. I  
13 suspect the jury wants to know who Mr. Grannis is by now. So  
14 he'll follow Mr. Vardaman. And then who's next? Mr. Breslow.

15 MS. GREENE: I think we'll have to see the timing and  
16 discuss it. But what we do know are the first two witnesses  
17 tomorrow: Mr. Vardaman, followed by Mr. Grannis. And again,  
18 the parties, as we have throughout, are working cooperatively  
19 to make sure there is no interruption to the trial and there is  
20 a witness waiting to go.

21 THE COURT: All right. Thank you.

22 Mr. Grannis, the Bennett issue comes up with him; is  
23 that correct?

24 MS. GREENE: Yes, your Honor.

25 MR. GAGE: I think so.

NACVROW7

Vardaman - Cross

1 THE COURT: So I'm going to have to decide that by the  
2 morning. It would be helpful to have some -- of course, there  
3 are a lot of cases about comparators, right? Some  
4 noncomparator cases where this type of evidence comes in  
5 because it's deemed relevant.

6 MS. GREENE: I'm not sure I understand, your Honor,  
7 with respect to noncomparator evidence.

8 THE COURT: This is not officially a comparator of  
9 Rowe's.

10 MS. GREENE: Not a comparator for the purpose of  
11 establishing a pay claim, but a comparator for purposes of  
12 establishing that behavior to which they were subjected is  
13 proof of bias.

14 THE COURT: Yes. What comes to my mind from the  
15 earlier back and forth is similarly situated, okay, for this  
16 type of -- this claim.

17 MS. GREENE: Yes, your Honor. There's many cases on  
18 this that we can pull for you to give you that case law.

19 THE COURT: Okay. Let's talk about timing.

20 I know what you all are doing. But I mean for me, if  
21 I'm going to rule on this in the morning, I need to be able to  
22 read it and think about it.

23 Mr. Gage and Ms. Tomezsko, do you want to respond to  
24 this letter setting out case law? I imagine that you do.

25 MR. GAGE: I would make a suggestion, Judge: Both

NACVROW7

Vardaman - Cross

1 simultaneously file something at a certain time tonight.

2 THE COURT: That's fine. That would work for us.

3 What time can you do it?

4 MR. GAGE: 9?

5 THE COURT: I was going to say 9, so that's fine.

6 MS. GREENE: That's fine for plaintiff.

7 THE COURT: So there's one other point that I would  
8 like addressed in these letters, and that is the argument that  
9 plaintiff is surfacing on the eve of trial a new theory, a new  
10 argument, whatever you want to call it. But I would like to  
11 get authorities from both of you in these letters as to that  
12 point.

13 MS. GREENE: I'm not sure I understand, your Honor.  
14 What is the new theory or argument that plaintiff has  
15 surfacing?

16 THE COURT: I heard you say earlier that Bennett is --  
17 references to her are sprinkled throughout documents that were  
18 produced long ago. But my understanding is that this approach  
19 that you now want to pursue, where you're going to question  
20 several witnesses about the -- about her leveling and what went  
21 into leveling her as a 7 and whether discrimination was  
22 involved in that, that that has not been part of this case at  
23 this point; is that correct?

24 MS. GREENE: Your Honor, it was not an issue for  
25 summary judgment, so it would not have come in as part of that,

NACVROW7

Vardaman - Cross

1 nor is it necessarily required that we do so. This is really  
2 an issue of how the plaintiff presents her evidence. It's not  
3 a new theory. It's not a new claim. It's simply an  
4 evidentiary route to establishing a part of her *prima facie*  
5 case with respect to the New York City human rights law  
6 discrimination claim.

7 So again, it's not a new claim. It's not a new legal  
8 argument. It doesn't change the jury instructions in any way.  
9 It's just evidence from which the jury can infer the existence  
10 of bias.

11 MR. GAGE: Your Honor, we'll put the detail in the  
12 letter. But this was not raised in the summary judgment motion  
13 and they proffered Ms. Bennett's hiring packet on the eve of  
14 trial as an exhibit. And so this is a new theory of trying to  
15 prove that Mr. Grannis is a bad guy who discriminates against  
16 people.

17 THE COURT: All right. So this is what I'm saying I  
18 want in the letters.

19 MR. GAGE: Yes.

20 THE COURT: And, you know, what you, Google, might  
21 have/would have done if you had known about this earlier  
22 arguably.

23 All right. Just going back to Burdis for a second.  
24 It was said yesterday that the video would have to be redone,  
25 depending on the rulings on the various issues. So I wish you



NACVROW7

Vardaman - Cross

1 a lot of luck in resolving this because, you know --

2 MS. TOMEZSKO: I direct that luck to Jean over here.

3 THE COURT: Because Jean is not going to be happy. If  
4 you fail to reach agreement, you know, what about Jean?

5 MR. GAGE: The consequence, I think, your Honor -- and  
6 Jean can correct me. The consequence, I think, will just mean  
7 that she'll have to manually fast forward. Am I right? No.

8 MS. GUTIERREZ: Adjust the start and end times.

9 MR. GAGE: We need to come to an agreement.

10 MS. TOMEZSKO: We'll resolve it with the parties.

11 THE COURT: That was where I was -- all right.

12 MS. TOMEZSKO: Might I just ask one logistical  
13 question, your Honor? I understand Mr. Vardaman is still under  
14 oath and I'm not allowed to speak with him about the substance  
15 of his testimony.

16 THE COURT: Correct.

17 MS. TOMEZSKO: I do need to tell him he needs to be  
18 here tomorrow.

19 THE COURT: Of course. This is what we went through  
20 with Mr. Shaukat also. You need to tell him what time he needs  
21 to be here. Is that it? Nothing else?

22 MR. GAGE: Yes. The only other thing I'm going to  
23 raise, just so your Honor knows, given where we are and the  
24 time, we're not anticipating the defendant's case is going to  
25 start tomorrow based on everything we're hearing, and the

NACVROW7

Vardaman - Cross

1 defendant's case will probably start on --

2 THE COURT: Wednesday.

3 MR. GAGE: On Wednesday, the 18th, which I think,  
4 based on the pace we've been going, almost certainly means that  
5 we'll at least have deliberations on the 19th. We'll finish on  
6 the 18th.

7 THE COURT: Thank you.

8 MS. GREENE: Your Honor?

9 MR. GAGE: Sorry for being Captain Obvious, but --

10 MS. GREENE: A related question with respect to the  
11 dismissal time tomorrow. Because there's four days in between  
12 tomorrow and the resumption of the trial, what is your Honor's  
13 preference with respect to going a bit later to finish up a  
14 witness before the long weekend, or maybe stopping a little  
15 sooner so that we're not starting a witness, doing ten minutes,  
16 and having the jury come back four days later.

17 THE COURT: So Friday evening in New York City is not  
18 a good time to get to where people live. I don't know where  
19 these jurors are coming from, but I imagine some of them are  
20 not right in Manhattan. It's just -- I would rather end a  
21 little bit early than push later, especially because it's a  
22 Friday.

23 MS. GREENE: Thank you.

24 THE COURT: All right.

25 MS. TOMEZSKO: Might we get that time check?

NACVROW7

Vardaman - Cross

1 THE COURT: Oh, yes.

2 THE DEPUTY CLERK: Plaintiff used 120 minutes today,  
3 which is a total of 391 minutes, which you have remaining of  
4 329. I'm sorry, a total of 391 minutes, which you have a total  
5 of 329 minutes remaining.

6 Defendant used 105 minutes, which is a total of 224  
7 minutes that you've used, and you have a remaining of 496  
8 minutes.

9 THE COURT: All right.

10 MS. TOMEZSKO: Just because you're about to stand up,  
11 your Honor.

12 THE COURT: Oh, that's it?

13 MS. TOMEZSKO: That's it.

14 THE COURT: Okay.

15 MR. GAGE: Good night.

16 THE COURT: Good night, till 9.

17 (Adjourned to October 13, 2023 at 9 o'clock a.m.)  
18  
19  
20  
21  
22  
23  
24  
25

## INDEX OF EXAMINATION

Examination of:	Page
-----------------	------

TARIQ SHAUKAT

Direct By Ms. Greene . . . . .	391
--------------------------------	-----

Cross By Mr. Gage . . . . .	400
-----------------------------	-----

Redirect By Ms. Greene . . . . .	476
----------------------------------	-----

Recross By Mr. Gage . . . . .	493
-------------------------------	-----

KEVIN LUCAS

Direct By Ms. Greene . . . . .	530
--------------------------------	-----

Cross By Ms. Tomezsko . . . . .	547
---------------------------------	-----

Redirect By Ms. Greene . . . . .	560
----------------------------------	-----

Recross By Ms. Tomezsko . . . . .	564
-----------------------------------	-----

STUART VARDAMAN

Direct By Ms. Greene . . . . .	567
--------------------------------	-----

Cross By Ms. Tomezsko . . . . .	599
---------------------------------	-----

## DEFENDANT EXHIBITS

Exhibit No.	Received
-------------	----------

54 . . . . .	411
--------------	-----